

T H E
CHARTER

Granted by Their Majesties

King WILLIAM

A N D

Queen MARY,

To the

INHABITANTS

Of the

PROVINCE

OF THE

Massachusetts-Bay

I N

New-England.

B O S T O N in N E W - E N G L A N D .

Printed by *Bartholomew Green*, and *John Allen*, (Printers to His Excellency
the GOVERNOUR & COUNCIL,) for, and Sold
by *Michael Perry*, and *Benjamin Eliot*.

1 6 9 9.

T H E
CHARTER

Granted by Their Majesties

King WILLIAM

A N D

Queen MARY

IN THE

INHABITANTS

OF THE

PROVINCE

OF THE

Massachusetts-Bay

I N

New-England.

BOSTON IN NEW-ENGLAND.

Printed by S. Kneass, and J. M. Smith (Printers to the Council), for the GOVERNMENT OF THE PROVINCE, by Authority and Command. 1780.

*The CHARTER granted by Their Majesties
King William and Queen Mary, &c.*

WILLIAM and MARY, by the Grace of God of England, Scotland, France, and Ireland, King and Queen, Defenders of the Faith, &c. To all to whom these Presents shall come Greeting. Whereas his late Majesty King James the First, Our Royal Predecessor, by his Letters Patents under the Great Seal of England, bearing Date at Westminster the Third day of November, in the Eighteenth Year of his Reign, did give and grant unto the Council Established at Plymouth in the County of Devon, for the Planting, Ruling, Ordering and Governing of New England in America, and to their Successors and Assigns, all that part of America lying and being in breadth from forty Degrees of Northerly Latitude from the Equinoctial Line to the forty eighth Degree of the said Northerly Latitude, inclusively, and in length of and within all the Breadth aforesaid throughout all the main Lands, from Sea to Sea, together also with all the firm Lands, Soils, Grounds, Havens, Ports, Rivers, Waters, Fishings, Mines and Minerals, as well Royal Mines of Gold and Silver, as other Mines and Minerals, Precious Stones, Quarries, and all and singular other Commodities, Jurisdictions, Royalties, Priviledges, Franchises and Preheminences, both within the said Tract of Land upon the Main, and also within the Islands and Seas adjoining: Provided always that the said Lands, Islands, or any the Premises by the said Letters Patents intended and meant to be granted, were not then actually possessed or inhabited by any other Christian Prince or State, or within the Bounds, Limits or Territories of the Southern Colony, then before granted by the said late King James the first, to be planted by divers of his Subjects in the South parts: To have and to hold, possess and enjoy, all and singular the aforesaid Continent Lands, Territories, Islands, Hereditaments and Precincts, Seas, Waters, Fishings; withall and all manner of their Commodities, Royalties, Liberties, Preheminencies and Profits that should from thenceforth arise from thence, with all and singular their Appurtenances and every part and parcel thereof, unto the said Council, and their Successors and Assigns for ever, to the sole and proper Use and Benefit of the said Council, and their Successors and Assigns for ever: To be holden of his said late Majesty King James the first, his Heirs and Successors, as of his Mannor of East Greenwich in the County of Kent, in free and Common Sockage, and not in Capite, nor by Knights Service: Yielding and Paying therefore to the said late King, his Heirs and Successors, the fifth part of the Oar of Gold and Silver, which should from time to time, and at all times then after happen to be found, gotten, had and obtained, in, at, or within any of the said Lands, Limits, Territories or Precincts, or in, or within any part or parcel thereof, for or in respect of all and all manner of Duties, Demands and Services whatsoever, to be done, made or paid to the said late King James the first, his Heirs and Successors (as in and by the said Letters Patents, amongst sundry other Clauses, Powers, Priviledges and Grants therein contained, more at large appeareth:) and whereas the said Council Established at Plymouth in the County of Devon, for the Planting, Ruling, Ordering and Governing of New England in America, did by their Deed indented under their Common Seal, bearing date the Nineteenth Day of March, in the Third Year of the Reign of Our Royal Grandfather King Charles the First, of ever Blessed Memory, Give, Grant, Bargain, Sell, Intestate, Alien and Confirm to Sir Henry Roswell, Sir John Young, Knights, Thomas Southcott, John Humphreys, John Endicott and Symond Whetcombe, their Heirs and Assigns, and their Affidaies, for ever, all that part of New-England in America aforesaid, which lyes and extends between a great River there, commonly called Monomack alias Merimack, and a certain other River there called Charles River, be-

ing in a bottom of a certain Bay there commonly called *Massachusetts*, alias *Mattachusetts*, alias *Massatusetts Bay*, and also all and singular those Lands and Hereditaments whatsoever, lying within the space of three *English Miles*, on the South part of the said *Charles River*, or of any and every Part thereof; and also all and singular the Lands and Hereditaments whatsoever, lying and being within the space of three *English Miles* to the Southward of the southermost part of the said Bay called *Massachusetts*, alias *Mattachusetts*, alias *Massatusetts Bay*; and also all those Lands and Hereditaments whatsoever which lye and be within the space of three *English Miles* to the Northward of the said River called *Monomack* alias *Merimack*, or to the Northward of any and every part thereof, and all Lands and Hereditaments whatsoever lying within the Limits aforesaid, North and South in Latitude, and in Breadth, and in Length, and Longitude, of and within all the breadth aforesaid throughout the Main Lands there, from the *Atlantic* and Western Sea and Ocean on the East part to the South Sea on the West part, and all Lands and Grounds, Place and Places, Soil, Woods and Wood-grounds, Havens, Ports, Rivers, Waters, Fishings and Hereditaments whatsoever, lying within the said bounds and limits, and every part and parcel thereof; and also all Islands lying in *America* aforesaid, in the said Seas, or either of them on the Western or Eastern Coasts or parts of the said Tracts of Land, by the said Indenture mentioned to be given and granted, bargained, sold, enfeoffed, alien'd and confirmed, or any of them; and also all Mines and Minerals, as well Royal Mines of Gold and Silver as other Mines and Minerals whatsoever in the said Lands and Premises, or any part thereof, and all Jurisdictions, Rights, Royalties, Liberties, Freedoms, Immunities, Privileges, Franchises, Preheminencies and Commodities whatsoever, which they the said Council Established at *Plymouth* in the County of *Devon*, for the Planting, Ruling, Ordering and Governing of *New-England* in *America*, then had, or might use, exercise or enjoy, in or within the said Lands or Premises, by the same Indenture mentioned to be given, granted, bargained, sold, enfeoffed and confirmed, in or within any part or parcel thereof: To have and to hold the said part of *New-England* in *America*, which lyes and extends, and is abutted as aforesaid, and every part and parcel thereof; and all the said Islands, Rivers, Ports, Havens, Waters, Fishings, Mines, Minerals, Jurisdictions, Franchises, Royalties, Liberties, Privileges, Commodities, Hereditaments and Premises whatsoever, with the Appurtenances, unto the said Sir *Henry Roswell*, Sir *John Young*, *Thomas Soutbcott*, *John Humphreys*, *John Endicott* and *Simond Whetcombe*, their Heirs and Assigns, and their Associates for ever, to the only proper and absolute use and behoof of the said Sir *Henry Roswell*, Sir *John Young*, *Thomas Soutbcott*, *John Humphreys*, *John Endicott* and *Simond Whetcombe*, their Heirs and Assigns and their Associates for evermore: To be holden of our said Royal Grandfather King *Charles* the First, his Heirs and Successors, as of his Manor of *East-Greenwich* in the County of *Kent*, in free and common Sockage, and not in Capite nor by Knights Service, yielding and paying therefore unto our said Royal Grandfather, his Heirs and Successors, the fifth part of the Oar of Gold and Silver which should from time to time, and at all times hereafter happen to be found, gotten, had and obtained in any of the said Lands, within the said Limits, or in or within any part thereof, for and in satisfaction of all manner of Duties, Demands and Services whatsoever, to be done, made or paid to Our said Royal Grandfather, his Heirs or Successors (as in and by the said recited Indenture may more at large appear.) And Whereas Our said Royal Grandfather in and by his Letters Patents under the Great Seal of England, bearing date at *Westminster* the fourth day of *March*, in the fourth Year of his Reign, for the Consideration therein mentioned, did grant and confirm unto the said Sir *Henry Roswell*, Sir *John Young*, *Thomas Soutbcott*, *John Humphreys*, *John Endicott* and *Simond Whetcombe*, and to their Associates after named, viz Sir *Ralph Saltsfall* Knight, *Isaac Johnson*, *Samuel Aldersey*, *John Ven*, *Matthew Craddock*, *George Harwood*, *Increase Nowell*, *Richard Perry*, *Richard Bellingham*, *Nathanael Wright*, *Samuel Vassall*, *Theophilus Eaton*, *Thomas Goffe*, *Thomas Adams*, *John Brown*, *Samuel Brown*, *Thomas Hutchins*, *William Vassall*, *William Pincheon* and *George Foxcroft*, their Heirs and Assigns, all the said part of *New-England* in *America*, lying and extending between the Bounds and

Limits

Limits in the said Indenture expressed, and all Lands and Grounds, Place and Places, Soils, Woods and Wood grounds, Havens, Ports, Rivers, Waters, Mines, Minerals, Jurisdiccions, Rights, Royalties, Liberties, Freedoms, Immunities, Priviledges, Franchises, Preheminencies and Hereditaments whatsoever; bargained, sold, enfeoffed and confirmed, or mentioned or intended to be given, granted, bargained, sold, enfeoffed, aliened and confirmed to them the said Sir Henry Roswell, Sir John Young, Thomas Southcott, John Humphreys, John Endicott and Symond Whetcombe, their Heirs and Assigns, and to their Associates for ever, by the said recited Indenture: To have and to hold the said part of New England in America, and other the Premises thereby mentioned to be granted and confirmed, and every part and parcel thereof, with the appurtenances, to the said Sir Henry Roswell, Sir John Young, Sir Richard Salenstall, Thomas Southcott, John Humphreys, John Endicott, Symond Whetcombe, Isaac Johnson, Samuel Aldersey, John Ven, Matthew Craddock, George Harwood, Increase Nowell, Richard Perry, Richard Bellingham, Nathaniel Wright, Samuel Vassal, Theophilus Eaton, Thomas Golfe, Thomas Adams, John Brown, Samuel Brown, Thomas Hutchins, William Vassall, William Pincheon and George Foxcroft, their Heirs and Assigns for ever, to their only proper and absolute use and behoof for evermore: To be holden of our said Royal Grandfather, his Heirs and Successors, as of his Mannor of East Greenwich aforesaid, in free and common Sockage, and not in Capite nor by Knights Service; and also yielding and paying therefore to Our said Royal Grandfather, his Heirs and Successors, the fifth part only of all the Oar of Gold and Silver which from time to time, and at all times after should be there gotten, had or obtained, for all Services, Exactions and Demands whatsoever, according to the Tenor and Reservation in the said recited Indenture expressed. And further, Our said Royal Grandfather by the said Letters Patents did give and grant unto the said Sir Henry Roswell, Sir John Young, Sir Richard Salenstall, Thomas Southcott, John Humphreys, John Endicott, Symond Whetcombe, Isaac Johnson, Samuel Aldersey, John Ven, Matthew Craddock, George Harwood, Increase Nowell, Richard Perry, Richard Bellingham, Nathaniel Wright, Samuel Vassall, William Pincheon and George Foxcroft, their Heirs and Assigns, all that said part of New England in America, which lyes and extends between a great River there, commonly called Monomack, alias Merimack River, and a certain other River there called Charles River, being in the bottom of a certain Bay there commonly called Massachusetts, alias Mattachusetts, alias Massachusetts Bay; and also all and singular those Lands and Hereditaments whatsoever, lying within the space of three English Miles, on the South part of the said River called Charles River, or of any or every part thereof; and also all and singular the Lands and Hereditaments whatsoever, lying and being within the space of three English Miles to the Southward of the southernmost part of the said Bay called Massachusetts, alias Mattachusetts, alias Massachusetts Bay; and also all those Lands and Hereditaments whatsoever which lye and be within the space of three English Miles to the Northward of the said River called Monomack alias Merimack, or to the Northward of any and every part thereof, and all Lands and Hereditaments whatsoever lying within the Limits aforesaid, North and South in Latitude, and in Breadth, and in Length and Longitude, of and within all the breadth aforesaid throughout the Main Lands there, from the Atlantick or Western Sea and Ocean on the East part, to the South Sea on the West part; and all Lands, Grounds, Place and Places, Soils, Woods and Wood-lands, Havens, Ports, Rivers, Waters and Hereditaments whatsoever, lying within the said Bounds and Limits, and every part and parcel thereof; and also all Islands in America aforesaid, in the said Seas, or either of them on the Western or Eastern Coasts or Parts of the said Tracts of Lands, thereby mentioned to be given and granted, or any of them; and all Mines and Minerals, as well Royal Mines of Gold and Silver as other Mines and Minerals whatsoever in the said Lands and Premises, or any part thereof; and free Liberty of Fishing in or within any of the Rivers or Waters within the bounds and limits aforesaid, and the Seas thereunto adjoining; and all Fishes, Royal Fishes, Whales, Balene, Sturgeon, and other Fishes of what kind or Nature soever, that should at any time thereafter be taken in or within the said Seas or Waters, or any of them, by the said Sir Henry Roswell, Sir John Young, Sir Richard Salenstall, Thomas Southcott,

John Humpbrys, John Endicott, Symond Whetcombe, Isaac Johnson, Samuel Aldersey, John Ven, Matthew Craddock, George Harwood, Increase Nowell, Richard Perry, Richard Bellingham, Nathaniel Wright, Samuel Vassall, Theophilus Eaton, Thomas Golsfe, Thomas Adams, John Brown, Samuel Brown, Thomas Hutchins, William Vassall, William Pincheon and George Foxcroft, their Heirs or Assigns, or by any other Person or Persons whatsoever there inhabiting, by them or any of them to be appointed to Fish therein. Provided always, that if the said Lands, Islands, or any the Premises before mentioned, and by the said Letters Patents last mentioned, intended and meant to be granted, were at the time of the granting of the said former Letters Patents, Dated the third day of November, in the Eighteenth Year of the Reign of his late Majesty King James the First, actually possessed or inhabited by any other Christian Prince or State, or were within the Bounds, Limits or Territories of the said Southern Colony then before granted by the said King, to be Planted by divers of his loving Subjects in the South parts of America, That then the said Grant of our said Royal Grandfather should not extend to any such parts or parcels thereof so formerly inhabited, or lying within the bounds of the Southern Plantation as aforesaid. But as to those Parts or Parcels so possessed or inhabited by any such Christian Prince or State, or being within the boundaries aforesaid, should be utterly void: To have and to hold, possess and enjoy the said parts of New England in America, which lye, extend, and are abutted as aforesaid, and every part and parcel thereof; and all the Islands, Rivers, Ports, Havens, Waters, Fishings, Fishes, Mines, Minerals, Jurisdications, Franchises, Royalties, Liberties, Priviledges, Commodities and Premises whatsoever, with the Appurtenances, unto the said Sir Henry Roswell, Sir John Young, Sir Richard Saltenstall, Thomas Southcott, John Humpbrys, John Endicott, Symond Whetcombe, Isaac Johnson, Samuel Aldersey, John Ven, Matthew Craddock, George Harwood, Increase Nowell, Richard Perry, Richard Bellingham, Nathaniel Wright, Samuel Vassall, Theophilus Eaton, Thomas Golsfe, Thomas Adams, John Brown, Samuel Brown, Thomas Hutchins, William Vassall, William Pincheon and George Foxcroft, their Heirs and Assigns, for ever: To the only proper and absolute use and behoof of the said Sir Henry Roswell, Sir John Young, Sir Richard Saltenstall, Thomas Southcott, John Humpbrys, John Endicott, Symond Whetcombe, Isaac Johnson, Samuel Aldersey, John Ven, Matthew Craddock, George Harwood, Increase Nowell, Richard Perry, Richard Bellingham, Nathaniel Wright, Samuel Vassall, Theophilus Eaton, Thomas Golsfe, Thomas Adams, John Brown, Samuel Brown, Thomas Hutchins, William Vassall, William Pincheon and George Foxcroft, their Heirs and Assigns for evermore: To be holden of Our said Royal Grandfather, his Heirs and Successors, as of his Mannor of East-Greenwich in the County of Kent, within the Realm of England, in free and common Sockage, and not in Capite nor by Knights Service: And also yielding and paying therefore to Our said Royal Grandfather, his Heirs and Successors, the fifth part only of all the Oar of Gold and Silver which from time to time, and at all times hereafter, should be gotten, had or obtained for all Services, Exactions and Demands whatsoever. Provided always, and his Majesties express Will and meaning was, that only one fifth part of all the Gold and Silver Oar above mentioned in the whole, and no more should be answered, reserved or payable unto our said Royal Grandfather, his Heirs and Successors, by Colour or Vertue of the said last mentioned Letters Patents, the double Reservations or Recitals aforesaid, any thing therein contained notwithstanding. And to the end that the Affairs and Business which from time to time should happen and arise concerning the said Lands, and the Plantations of the same, might be the better Managed and Ordered, and for the good Government thereof, our said Royal Grandfather King Charles the First, did by his said Letters Patents Create and make the said Sir Henry Roswell, Sir John Young, Sir Richard Saltenstall, Thomas Southcott, John Humpbrys, John Endicott, Symond Whetcombe, Isaac Johnson, Samuel Aldersey, John Ven, Matthew Craddock, George Harwood, Increase Nowell, Richard Perry, Richard Bellingham, Nathaniel Wright, Samuel Vassall and Theophilus Eaton, Thomas Golsfe, Thomas Adams, John Brown, Samuel Brown, Thomas Hutchins, William Vassall, William Pincheon and George Foxcroft, and all such others as should thereafter be admitted and made free of the Company and Society therein after mentioned, one Body Corporate and Politique in Fact and Name, by

the

the Name of the Governour and Company of the *Massachusetts-Bay* in *New England*, and did grant unto them and their Successors divers Powers, Liberties and Priviledges, as in and by the said Letters Patents may more fully and at large appear. And Whereas the said Governour and Company of the *Massachusetts-Bay* in *New England*, by Vertue of the said Letters Patents did settle a Colony of the English in the said parts of *America*, and divers good Subjects of this Kingdom, encouraged and invited by the said Letters Patents, did Transport themselves and their Effects into the same, whereby the said Plantation did become very populous, and divers Counties, Towns and Places, were Created, Erected, made and set forth, or designed within the said parts of *America*, by the said Governour and Company for the time being : And Whereas in the Term of the *Holy Trinity*, in the thirty sixth Year of the Reign of our Dearest Uncle King *Charles* the Second, a Judgment was given in Our Court of *Chancery* then sitting at *Westminster*, upon a Writ of *Scire facias*, brought and prosecuted in the said Court against the Governour and Company of the *Massachusetts-Bay* in *New England*, that the said Letters Patents of our said Royal Grandfather King *Charles* the First, bearing date at *Westminster* the 4th day of *March*, in the fourth Year of his Reign, made and granted to the said Governour and Company of the *Massachusetts-Bay* in *New England*, and the Enrollment of the same, should be cancelled, vacated and annulled, and should be brought into the said Court to be cancelled, (as in and by the said Judgment remaining upon Record in the said Court doth more at large appear :) And whereas several Persons employed as Agents in behalf of our said Colony of the *Massachusetts-Bay* in *New England*, have made their humble Application unto us, That we would be graciously pleased by our Royal Charter to Incorporate our Subjects in our said Colony, and to grant and confirm unto them such powers, priviledges and Franchizes as in our Royal Wisdom should be thought most Conducing to our Interest and Service, and to the Welfare and happy State of our Subjects in *New England* : And We being graciously pleased to gratifie our said Subjects, and also to the end our good Subjects within our Colony of *New Plymouth* in *New England* aforesaid, may be brought under such a form of Government, as may put them in a better Condition of Defence, and considering as well the Granting unto them as unto our Subjects in the said Colony of the *Massachusetts-Bay* our Royal Charter, with reasonable Powers and Priviledges, will much tend not only to the safety, but to the flourishing Estate of our Subjects in the said parts of *New England*, and also to the advancing of the Ends for which the said Plantations were at first Encouraged ; Of our Special Grace, certain Knowledge, and meer Motion, have Willed and Ordained, and We do by these presents for us, our Heirs and Successors Will and Ordain, That the Territories and Colonies commonly called or known by the Names of the Colony of the *Massachusetts-Bay*, and Colony of *New Plymouth*, the Province of *Main*, the Territory called *Accada*, or *Nova Scotia* ; and all that Tract of Land lying between the said Territories of *Nova Scotia*, and the said Province of *Main*, be Erected, united and Incorporated : And we do by these presents unite, Erect and Incorporate the same into one Real Province by the Name of Our Province of the *Massachusetts-Bay* in *New England*, and of our Especial Grace, certain knowledge, and meer motion, we have given and granted, and by these presents, for Us, our Heirs and Successors, do give and grant unto our good Subjects, the Inhabitants of our said Province or Territory of the *Massachusetts-Bay*, and their Successors, all that part of *New England* in *America*, lying and extending from the great River commonly called *Mowomack*, alias *Merimack*, on the North part, and from three miles Northward of the said River to the *Atlantick* or Western Sea or Ocean on the South part, and all the Lands and Hereditaments whatsoever lying within the Limits aforesaid, and Extending as far as the outermost points or Promontories of Land called *Cape Cod*, and *Cape Mallabar* North and South, and in Latitude, breadth, and in length and Longitude, of and within all the breadth and Compaſs aforesaid throughout the main Land there, from the said *Atlantick* or Western Sea and Ocean on the East part towards the South Sea, or Westward as far as our Colonies of *Rhode-Island*, *Connecticut*, and the *Narragansett Countrey* : And also

The first
Charter vacated by a Judgment in *Chancery*, Anno 1684.

The Agents of that Colony Petitioned to be reincorporated as formerly.

The *Massachusetts*, *Plymouth*, and the Province of *Main*, *Nova Scotia*, united and made one Province.

The Extent and Bounds of that Province.

all

all that part and portion of main Land, beginning at the entrance of *Piscataway Harbour*, and so to pass up the same into the River of *Newickwamuck*, and through the same into the furthest head thereof, and from thence North-westward, till one hundred and twenty miles be finished, and from *Piscataway Harbour* mouth aforesaid Northeastward along the Sea Coast to *Sagadahock*, and from the period of one hundred and twenty miles aforesaid to cross over land to the one hundred and twenty miles before reckoned up into the land from *Piscataway Harbour* through *Newickwamuck River*, and also the North-half of the Isles of *Shoals*, together with the Isles of *Capawock*, and *Nantuckets* near *Cape Cod* aforesaid, and also the Lands and Hereditaments lying and being in the Countrey or Territory commonly called *Accada*, or *Nova Scotia*, and all those Lands and Hereditaments lying and extending between the said Countrey or Territory of *Nova Scotia*, and the said River of *Sagadahock*, or any part thereof; and all Lands, Grounds, Places, Soyle, Woods and Wood-grounds, Havens, Ports, Rivers, Waters, and other Hereditaments and Premises whatsoever lying within the said Bounds and Limits aforesaid, and every part and parcel thereof: And also all Islands and Isles lying within Ten Leagues directly opposite to the Main Land within the said Bounds: And all Mines and Minerals, as well Royal Mines of Gold and Silver, as other Mines and Minerals whatsoever in the said Lands and Premises, or any part thereof. To have and to hold, the said Territories, Tracts, Countreys, Lands, Hereditaments; and all and singular other the Premises, with their and every of their Appurtenances to our said Subjects the Inhabitants of our said Province of the *Massachusetts Bay* in *New England*, and their Successors to their only proper Use and behoof for evermore, To be holden of Us, our Heirs and Successors, as of our Mannor of *East-Greenwich*, in the County of *Kent*, by Fealty only in free and common Sockage: Yielding and paying therefore yearly to Us, our Heirs and Successors, the Fifth part of all Gold and Silver Oar, and Precious Stones which shall from time to time, and at all times hereafter, happen to be found, gotten, had and obtained in any of the said Lands and Premises, or within any part thereof. *Provided* nevertheless, and we do for Us, our Heirs and Successors, grant and ordain, that all and every such Lands, Tenements and Hereditaments, and all other Estates, which any Person or Persons, or Bodies Politick, or Corporate, Towns, Villages, Colledges or Schools, do hold and enjoy, or ought to hold and enjoy, within the Bounds aforesaid, by or under any Grant or Estate duly made or granted by any General Court formerly held, or by virtue of the Letters, Patents herein before recited, or by any other Lawful Right or Title whatsoever, shall be by such Person and Persons, Bodies Politick and Corporate, Towns, Villages, Colledges, or Schools, their respective Heirs, Successors and Assigns for ever, hereafter held and enjoyed, according to the purport and intent of such respective Grant, under and subject nevertheless to the Rents and Services thereby reserved or made payable, any matter or thing whatsoever to the contrary notwithstanding. *And provided also*, That nothing herein contained shall extend, or be understood or taken, to impeach or prejudice any Right, Title, Interest or Demand, which *Samuel Allen* of *London*, Merchant, claiming from and under *John Mason*, Esq; deceased, or any other Person or Persons, hath or have, or claimeth to have, hold or enjoy, of, into, or out of any part or parts of the Premises situate within the Limits above mentioned: But that the said *Samuel Allen*, and all and every such person and persons, may and shall have, hold and enjoy the same in such manner, (and no other than) as if these Presents had not been had or made. It being our further Will and Pleasure, That no Grants, or Conveyances of any Lands, Tenements or Hereditaments to any Towns, Colledges, Schools of Learning, or to any private Person or Persons, shall be judged or taken, to be avoided or prejudiced, for, or by reason of any want or defect of Form, but that the same stand and remain in force, and be maintained and adjudged, and have effect in the same manner as the same should or ought before the time of the said recited Judgment, according to the Laws and Rules then and there usually practised and allowed. *And* we do further, for Us, our Heirs and Successors, Will, Establish and Ordain, That from henceforth for ever there shall be One Governour; One Lieutenant, or Deputy Governour; and one Secretary of our

All Mines & Minerals granted to the Inhabitants & their Successors.

All Lands, Hereditaments, &c. formerly granted to any Town, Colledge, or School of Learning, confirm'd.

The Governours Council to Consist of 28 Assistants.

our said Province or Territory, to be from time to time appointed and commissioned by Us, our Heirs and Successors; and Eight and twenty Assistants, or Councillors, to be advising and assisting to the Governour of our said Province or Territory for the time being, as by these Presents is hereafter directed and appointed: Which said Councillors or Assistants are to be constituted, elected and chosen in such form and manner as hereafter in these Presents is expressed. And for the better Execution of our Royal Pleasure and Grant in this behalf, We do by these Presents, for Us, our Heirs and Successors, nominate, ordain, make and constitute our Trusty and Well-beloved *Simon Broadstreet, John Richards, Nathanael Saltonstall, Wait Winthrop, John Phillips, James Russel, Samuel Sewall, Samuel Appleton, Bartholomew Gedney, John Hathorn, Eliza Hutchinson, Robert Pike, Jonathan Corwin, John Jolliffe, Adam Winthrop, Richard Middlecot, John Foster, Peter Serjeant, Joseph Lynd, Samuel Heyman, Stephen Mason, Thomas Winkley, William Bradford, John Walley, Barnabas Lothrop, Job Alcott, Samuel Daniel, and Silvanus Davis, Esq;* the first and present Councillors or Assistants of our said Province, to continue in their said respective Offices or Trusts of Councillors or Assistants until the last *Wednesday* in *May*, which shall be in the Year of our Lord 1693, and until other Councillors or Assistants shall be chosen and appointed in their stead, in such manner as in these Presents is expressed. And we do further by these Presents constitute and appoint our trusty and Well beloved *Isaac Addington Esq;* to be our first and present Secretary of our said Province, during our pleasure. And our Will and Pleasure is, That the Governour of our said Province for the time being, shall have Authority, from time to time, at his Discretion, to assemble and call together the Councillors or Assistants of our said Province for the time being: And that the said Governour, with the said Assistants or Councillors, or seven of them at the least shall, and may from time to time hold and keep a Council for the ordering and directing the Affairs of our said Province. And further, We Will, and will by these Presents for Us, our Heirs and Successors, do Ordain and Grant, that there shall and may be convened, held and kept by the Governour for the time being, upon every last *Wednesday* in the Month of *May*, every Year, for ever, and at all such other times as the Governour of our said Province shall think fit &c appoint a Great and General Court or Assembly; which said Great & General Court or Assembly shall consist of the Governour and Council or Assistants for the time being, and of such Free-holders of our said Province or Territory, as shall be from time to time elected or deputed by the major part of the Free-holders, and other Inhabitants of the respective Towns or Places who shall be present at such Elections; each of the said Towns and Places being hereby impowred to elect and depute Two Persons and no more to serve for and represent them respectively in the said Great and General Court or Assembly. To which Great and General Court or Assembly to be held as aforesaid, We do hereby, for Us, our Heirs and Successors, give and grant full Power and Authority from time to time to direct, appoint and declare what number each County, Town and Place shall elect and depute to serve for, and represent them respectively in the said Great and General Court or Assembly. Provided always, that no Free holder, or other person, shall have a Vote in the Election of Members to Serve in any Great and General Court or Assembly to be held as aforesaid, who at the time of such Election shall not have an Estate of Free hold in Land within our said Province or Territory, to the value of Forty Shillings *per Ann.* at the least; or other Estate to the value of Fifty Pounds sterling: And that every Person who shall be so elected; shall, before he, Sit or Act in the said Great and General Court or Assembly, take the Oaths mentioned in an *Act of Parliament* made in the First Year of our Reign, entitled, *An Act for Abrogating of the Oaths of Allegiance and Supremacy, and appointing other Oaths*, and thereby appointed to be taken instead of the Oaths of Allegiance and Supremacy: And shall make, repeat and subscribe the Declaration mentioned in the said Act, before the Governour, or Lieutenant or Deputy Governour, or any Two of the Assistants for the time being, who shall be thereunto authorized and appointed by our said Governour. And that the Governour for the time being shall have full Power and Authority from time to time, as he shall judge necessary, to Adjourn, Prorogue and Dissolve all Great and General Courts or Assemblies met and conven'd as aforesaid. And our Will and Pleasure is, and we do hereby, for Us, our Heirs and Successors, grant, establish and ordain, That yearly, once in every Year for ever hereafter, the aforesaid number of Eight and twenty Coun-

The Names
of the first As-
sistants.

To continue
until *May*,
1693, and
until others
are chosen by
the Assembly.

The Govern-
our with se-
ven Assistants
to be a Coun-
cil.

A general
Court or As-
sembly to be
held the last
Wednesday in
May, or often-
er every Year.

Two Assem-
bly-men to
be Chosen by
the Freehold-
ers in every
Town.

The Govern-
our has
Power to Ad-
journ, Pro-
rogue and
Dissolve the
Assembly.

The Governours Councillors to be Inhabitants or Proprietors of Land in New-England.

Judges, Sheriffs, Justices, &c. to be appointed with the Consent of the Governours Council.

What Oaths are to be taken.

cellors or Assistants shall be by the General Court or Assembly newly Chosen; that is to say, Eighteen at least of the Inhabitants of, or Proprietors of Lands within the Territory formerly called the Colony of the *Massachusetts Bay*; and Four at the least of the Inhabitants of, or Proprietors of Lands within the Territory formerly called *New-Plymouth*; and Three at the least of the Inhabitants of, or Proprietors of Lands within the Territory formerly called the *Province of Maine*; and one at the least of the Inhabitants of, or Proprietors of Land within the Territory lying between the River of *Sagadahock* and *Nova Scotia*. And that the said Councillors or Assistants, or any of them, shall or may at any time hereafter be removed or displaced from their respective Places or Trust of Councillors or Assistants by any Great or General Court or Assembly; and that if any of the said Councillors or Assistants shall happen to die, or be removed, as aforesaid, before the General Day of Election, that then, and in every such Case, the Great and General Court or Assembly, at their first sitting may proceed to a New Election of one or more Councillors or Assistants, in the room or place of such Councillors and Assistants so dying or removed. And We do further grant and ordain, That it shall and may be lawful for the said Governour, with the Advice and Consent of the Council or Assistants, from time to time, to nominate and appoint Judges, Commissioners of Oyer and Terminer, Sheriffs, Provoests, Marshals, Justices of the Peace, and other Officers, to our Council and Courts of Justice belonging. *Provided* alwayes, that no such Nomination or Appointment of Officers be made without Notice first given, or Summons issued out seven days before such Nomination or Appointment, unto such of the said Councillors or Assistants as shall be at that time residing within our said Province. And our Will and Pleasure is, That the Governour, and Lieutenant or Deputy-Governour and Councillors, or Assistants for the time being, and all other Officers to be Appointed or Chosen, as aforesaid, shall, before the undertaking the Execution of their Offices and Places respectively, take their several and respective Oaths for the due and faithful performance of their Duties in their several and respective Offices and Places; and also the Oaths appointed by the said Act of Parliament made in the First Year of our Reign, to be taken instead of the Oaths of Allegiance and Supremacy; and shall make, repeat and subscribe the Declaration mentioned in the said Act, before such Person or Persons as are by these Presents herein after appointed: (*That is to say,*) The Governour of our said Province or Territory, for the time being, shall take the said Oaths, and make, repeat and subscribe the said Declaration before the Lieutenant or Deputy-Governour; or, in his Absence, before any two or more of the said Persons hereby nominated and appointed the present Councillors or Assistants of our said Province or Territory, to whom We do by these Presents give full Power and Authority to give and administer the same to our said Governour accordingly. And after our said Governour shall be sworn, and shall have subscribed the said Declaration, that then our Lieutenant or Deputy-Governour for the time being, and the Councillors or Assistants before by these Presents nominated and appointed, shall take the said Oaths, and make, repeat and subscribe the said Declaration before our said Governour: And that every such Person or Persons as shall (at any time of the Annual Elections, or otherwise upon Death or Removal) be appointed to be the New Councillors or Assistants, and all other Officers to be hereafter Chosen from time to time, shall take the Oaths to their respective Offices and Places belonging; and also the said Oaths appointed by the said Act of Parliament, to be taken instead of the Oaths of Allegiance and Supremacy; and shall make, repeat and subscribe the Declaration mentioned in the said Act, before the Governour, or Lieutenant-Governour, or any two or more Councillors or Assistants, or such other Person or Persons as shall be appointed thereunto by the Governour for the time being: To whom We do therefore by these Presents give full Power and Authority, from time to time, to give and administer the same respectively, according to our true meaning herein before declared, without any Commission, or further Warrant to be had and obtained from Us, our Heirs and Successors in that behalf. And our Will and Pleasure is, and we do hereby Require and Command, That all and every Person and Persons hereafter by Us, our Heirs

Heirs and Successors, Nominated and Appointed to the respective Offices of Governour, or Lieutenant, or Deputy Governour, and Secretary of our said Province or Territory (which said Governour, or Lieutenant, or Deputy Governour, and Secretary of our said Province or Territory for the time being, We do hereby Reserve full Power and Authority to Us, our Heirs and Successors, to Nominate and Appoint accordingly) shall before he or they be admitted to the Execution of their respective Offices, take as well the Oath for the due and faithful Performance of the said Offices respectively, as also the Oaths appointed by the said Act of Parliament made in the said first Year of our Reign, to be taken instead of the said Oaths of Allegiance and Supremacy, and shall also make, repeat and subscribe the Declaration appointed by the said Act in such Manner, and before such Persons as aforesaid. And further Our Will and Pleasure is, and We do hereby for Us, Our Heirs and Successors, grant, establish and ordain, that all and every of the Subjects of Us, our Heirs and Successors, which shall go to and inhabit within our said Province and Territory, and every of their Children which shall happen to be born there, or on the Seas in going thither, or returning from thence, shall have and enjoy all Liberties and Immunities of Free and Natural Subjects within any of the Dominions of Us, our Heirs and Successors, to all intents, constructions and purposes whatsoever, as if they and every of them were born within this our Realm of England: And for the greater Ease and Encouragement of our loving Subjects, inhabiting our said Province or Territory of the *Massachusetts-Bay*, and of such as shall come to inhabit there, We do by these Presents, for Us, our Heirs and Successors, grant, establish and ordain, that for ever hereafter there shall be a Liberty of Conscience allow'd in the Worship of God to all Christians (Except Papists) inhabiting or which shall inhabit or be resident within our said Province or Territory. And we do hereby Grant and Ordain, That the Governour, or Lieutenant or Deputy Governour of our said Province or Territory for the time being, or either of them, or any two or more of the Council or Assistants for the time being, as shall be thereunto appointed by the said Governour, shall and may at all times, and from time to time hereafter, have full Power and Authority to administer and give the Oaths appointed by the said Act of Parliament, made in the first Year of Our Reign, to be taken instead of the Oaths of Allegiance and Supremacy, to all and every Person and Persons which are now inhabiting or residing within our said Province or Territory, or which shall at any time or times hereafter go or pass thither. And We do of our further Grace, certain Knowledge and meer Motion, Grant, Establish and Ordain, for Us, our Heirs and Successors, that the Great and General Court or Assembly of our said Province or Territory for the time being, Conven'd as aforesaid, shall for ever have full Power and Authority to Erect and Constitute Judicatories and Courts of Record, or other Courts, to be held in the Name of Us, our Heirs and Successors, for the Hearing, Trying and Determining of all manner of Crimes, Offences, Pleas, Procceses, Plaints, Actions, Matters, Causes, and things whatsoever, arising or happening within our said Province or Territory, or between persons inhabiting or residing there, whether the same be Criminal or Civil, and whether the said Crimes be Capital or not Capital, and whether the said Pleas be real, personal or mixt, and for the awarding and making out of Execution thereupon: To which Courts and Judicatories, We do hereby, for Us, our Heirs and Successors, give and grant full Power and Authority from time to time to administer Oaths for the better discovery of Truth in any matter in Controversie, or depending before them. And We do for Us, our Heirs and Successors, Grant, Establish and Ordain, that the Governour of our said Province or Territory for the time being, with the Council or Assistants, may do, execute or perform all that is necessary for the Probate of Wills, and granting of Administrations for touching or concerning, any Interest or Estate which any Person or Persons shall have within our said Province or Territory. And whereas we judge it necessary that all our Subjects should have Liberty to Appeal to Us, our Heirs and Successors in Cases that may deserve the same, We do by these Presents Ordain, that in Case either Party shall not rest satisfied with

The King reserves to himself Power to appoint the Governour, Deputy Governour, and Secretary.

Persons born in New-England to have the Privileges of Natural Subjects of England.

Liberty of Conscience to be granted to all Christians except Papists.

The general Court has Power to Erect Judicatories, to hear & determine concerning all manner of Crimes, capital or not capital; and Pleas, whether real, personal or mixt.

Wills.

Appeals to
the King in
some Personal
Actions.

Execution
not to be staid

The general
Court has
Power to
make Laws,
not repug-
nant to the
Laws of
England.

To Name
and Settle
Civil Officers
Except *&c.*

Power to im-
pose Taxes on
all the Inha-
bitants, to be
disposed by
warrant from
the Govern-
our and
Council, or
according to
such Acts as
shall then be
in force.

The Conver-
sion of the *In-
dians* to be
endeavoured.

the Judgment or Sentence of any Judicatories or Courts within our said Province or Territory in any personal Action, wherein the Matter in difference doth exceed the Value of three hundred pounds Sterling, that then he or they may Appeal to Us, our Heirs and Successors, in our or their Privy Council, Provided that such Appeal be made within fourteen dayes after the Sentence or Judgment given; and that before such Appeal be allowed, security be given by the Party or Parties appealing, in the value of the matter in difference, to pay or answer the Debt or Damages for the which Judgment or Sentence is given, with such Costs and Damages as shall be awarded by Us, our Heirs or Successors, in Case the Judgment or Sentence be affirmed: And Provided also that no Execution shall be staid or suspended by reason of such Appeal unto Us, our Heirs and Successors, in Our or their Privy Council, so as the Party suing or taking out Execution do in the like manner give security to the Value of the matter in Difference, to make Restitution in Case the said Judgment or Sentence be Reversed or Annulled upon the said Appeal. And We do further, for Us, our Heirs and Successors, Give and Grant to the said Governour, and the great and general Court or Assembly of our said Province or Territory for the time being, full Power and Authority, from time to time, to Make, Ordain and Establish all manner of wholesome and reasonable Orders, Laws, Statutes and Ordinances, Directions and Instructions, either with Penalties or without (so as the same be not repugnant or contrary to the Laws of this our Realm of *England*) as they shall judge to be for the good and welfare of our said Province or Territory, and for the Government and Ordering thereof, and of the People inhabiting, or who shall inhabit the same, and for the necessary support and defence of the Government thereof. And We do for Us, our Heirs and Successors, give and grant, that the said General Court or Assembly shall have full Power and Authority to Name and settle Annually, all Civil Officers within the said Province, such Officers Excepted, the Election and Constitution of whom We have by these Presents reserved to Us, our Heirs and Successors, or to the Governour of our said Province for the time being; and to set forth the several Duties, Powers and Limits of every such Officer to be appointed by the said General Court or Assembly, and the Forms of such Oaths not repugnant to the Laws and Statutes of this our Realm of *England*, as shall be respectively administered unto them for the Execution of their several Offices and Places; and also to impose Fines, Mulets, Imprisonments, and other Punishments, and to impose and levy proportionable and reasonable Assessments, Rates and Taxes upon the Estates and Persons of all and every the Proprietors or Inhabitants of our said Province or Territory, to be issued and disposed of by Warrant under the Hand of the Governour of our said Province for the time being, with the Advice and Consent of the Council, for our Service in the necessary Defence and Support of our Government of our said Province or Territory, and the Protection and Preservation of the Inhabitants there, according to such Acts as are or shall be in force within our said Province, and to dispose of matters and things, whereby our Subjects, Inhabitants of our said Province, may be religiously, peaceably and civilly governed, protected and defended, so as their good Life and orderly Conversation may with the *Indians*, Natives of the Countrey, to the Knowledge and Obedience of the only true God and Saviour of Mankind, and the Christian Faith, which his Royal Majesty our Royal Grandfather King *Charles* the First, in his said Letters Patents declared was his Royal Intentions, and the Adventurers free Profession to be the principle End of the said Plantation. And for the better securing and maintaining Liberty of Conscience hereby granted to all Persons at any time being and residing within our said Province or Territory as aforesaid, Willing, Commanding and Requiring, and by these Presents, for Us, our Heirs and Successors, ordaining and appointing that all such Orders, Laws, Statutes and Ordinances, Instructions and Directions as shall be so Made and Published under our Seal of our said Province or Territory, shall be carefully and duely observed, kept and performed, and put in Execution according to the true intent and meaning of these Presents. Provided alwayes, and We do by these Presents, for Us, our Heirs and Successors, Establish and Ordain, that in the framing and passing of all such Orders,

ders, Laws, Statutes and Ordinances, and in all Elections and Acts of Government whatsoever, to be passed, made or done by the said General Court or Assembly, or in Council, the Governour of our said Province or Territory of the *Massachusetts-Bay* in *New-England* for the time being, shall have the Negative Voice, and that without his Consent or Approbation signified and declared in Writing; no such Orders, Laws, Statutes, Ordinances, Elections, or other Acts of Government whatsoever, so to be made, pass'd or done by the said General Assembly or in Council, shall be of any force, effect or validity, any thing herein contained to the contrary in any wise notwithstanding. And We do for Us, our Heirs and Successors, Establish and Ordain, that the said Orders, Laws, Statutes and Ordinances, be by the first opportunity after the making thereof, sent or transmitted unto Us, our Heirs and Successors, under the Publick Seal, to be appointed by Us, for Our or their Approbation or Disallowance. And that in Case all or any of them shall at any time within the space of three Years next after the same shall have been presented to Us, our Heirs and Successors, in our or their Privy Council, be disallowed and rejected, and so signified by Us, our Heirs and Successors, under our or their Sign Manual and Signet, or by Order in our or their Privy Council, unto the Governour for the time being, then such and so many of them as shall be so disallowed and rejected, shall thenceforth cease and determine, and become utterly void and of none effect. Provided always, that in Case We, our Heirs or Successors, shall not within the term of three Years after the presenting of such Orders, Laws, Statutes or Ordinances, as aforesaid, signify our or their Disallowance of the same, then the said Orders, Laws, Statutes or Ordinances, shall be and Continue in full Force and Effect, according to the true intent and meaning of the same, until the Expiration thereof, or that the same shall be repealed by the General Assembly of our said Province for the time being. Provided also, that it shall and may be lawful for the said Governour and General Assembly to make or pass any Grant of Lands lying within the Bounds of the Colonies formerly called the Colonies of the *Massachusetts-Bay*, and *New-Plymouth*, and Province of *Main*, in such manner as heretofore they might have done by virtue of any former Charter or Letters Patents; which Grants of Lands within the Bounds aforesaid, We do hereby Will and Ordain to be and continue for ever of full Force and Effect, without Our further Approbation or Consent. And so as nevertheless, and it is our Royal Will and Pleasure, that no Grant or Grants of any Lands lying or extending from the River of *Sagadahock*, to the Gulph of *St. Laurence* and *Canada Rivers*, and to the *Main Sea* Northward and Eastward, to be made or pass'd by the Governour and General Assembly of our said Province, be of any force, validity or effect, until We, our Heirs and Successors, shall have signified our or their Approbation of the same. And we do by these Presents for Us, our Heirs and Successors, grant, establish and ordain, that the Governour of our said Province or Territory for the time being, shall have full power by himself, or by any chief Commander, or other Officer or Officers, to be appointed by him from time to time, to Train, Instruct, Exercise and Govern the Militia there; and for the special Defence and safety of our said Province or Territory, to Assemble in Martial Array, and put in Warlike Posture the Inhabitants of our said Province or Territory, and to Lead and Conduct them, and with them to Encounter, Expulse, Repel, Resist and Pursue by Force of Arms, as well by Sea as by Land, within or without the Limits of our said Province or Territory, and also to kill, slay, destroy and conquer, by all fitting wayes, enterprizes and means whatsoever, all and every such Person and Persons as shall at any time hereafter attempt or enterprize the destruction, invasion, detriment or annoyance of our said Province or Territory; and to use and exercise the Law Martial in time of actual War, Invasion or Rebellion, as occasion shall necessarily require; and also from time to time to Erect Forts, and to Fortifie any Place or Places within our said Province or Territory, and the same to furnish with all necessary Ammunition, Provision and Stores of War, for offence or defence, and to commit from time to time, the Custody and Government of the same, to such person or persons as to him shall seem meet, and the said Forts and Fortifications to demolish at his pleasure, and to take and surprize

The Governour to have a Negative on the Acts of the General Assembly, &c.

Laws to be sent to England for the Royal Approbation: If not disallowed within three Years to be in force until Repealed by the Assembly.

The General Court has Power to pass any grants of Land in *Massachusetts Plymouth*, or the Province of *Main*. Grants or Land between *Sagadahock* and *St. Laurence* to have the Royal Approbation.

The Governour to Command the Militia.

No Persons
to be Trans-
ported out
of the Pro-
vince with-
out their
own Consent.

The Law-
Martial not
to be execu-
ted on any
Inhabitant
without the
Consent of
the Council.

In the ab-
sence of the
Governour,
the Deputy
Governour
to have the
same Power.

In the ab-
sence of both
the Govern-
our & De-
puty Govern-
our, the
major part
of the Coun-
cil to have
their Power.

Admiralty
Jurisdiction
reserved.

The Trade
of Fishing
not to be
abridg'd.

by all wayes and means whatsoever, all and every such Person or Persons, with their Ships, Arms, Ammunition, and other Goods, as shall in a Hostile manner Invade; or attempt the Invading, Conquering or Annoying of our said Province or Territory. Provided always, and We do by these Presents, for Us, our Heirs and Successors, Grant, Establish and Ordain, That the said Governour shall not at any time hereafter, by Virtue of any Power hereby granted, or hereafter to be granted to him, Transport any of the Inhabitants of our said Province or Territory, or oblige them to March out of the Limits of the same, without their free and voluntary Consent, or the Consent of the great and general Court or Assembly of our said Province or Territory; nor grant Commissions for Exercising the Law Martial upon any the Inhabitants of our said Province or Territory, without the Advice and Consent of the Council or Assistants of the same. Provided in like manner, and We do by these Presents, for Us, our Heirs and Successors, Constitute and Ordain, That when and as often as the Governour of our said Province for the time being, shall happen to dye, or be displaced by Us, our Heirs or Successors, or be absent from his Government, that then and in any of the said Cases, the Lieutenant or Deputy Governour of our said Province for the time being, shall have full Power and Authority, to do and execute all and every such acts, matters and things, which our Governour of our said Province for the time being, might or could by Virtue of these our Letters, Patents lawfully do or execute, if he were personally present, until the return of the Governour so absent, or Arrival or Constitution of such other Governour as shall or may be appointed by Us, our Heirs or Successors in his stead; and that when and as often as the Governour, and Lieutenant or Deputy Governour of our said Province or Territory for the time being, shall happen to dye, or be displaced by Us, our Heirs or Successors, or be absent from our said Province; and that there shall be no person within the said Province, Commissionated by Us, our Heirs or Successors to be Governour within the same; then and in every of the said Cases, the Council or Assistants of our said Province shall have full Power and Authority, and We do hereby give and grant unto the said Council or Assistants of our said Province for the time being, or the major part of them, full Power and Authority to do and execute all and every such acts, matters and things which the said Governour, or Lieutenant or Deputy Governour of our said Province or Territory for the time being, might or could lawfully do or exercise, if they or either of them were personally present, until the return of the Governour, or Lieutenant or Deputy Governour so absent, or Arrival or Constitution of such other Governour, or Lieutenant or Deputy Governour, as shall and may be appointed by Us, our Heirs or Successors from time to time. Provided always, and it is hereby Declared, that nothing herein, shall extend or be taken to erect, or grant, or allow the exercise of any Admiral Court, Jurisdiction, Power or Authority, but that the same shall be, and is hereby reserved to Us and our Successors, and shall from time to time be erected, granted and exercised by Virtue of Commissions to be issued under the Great Seal of *England*, or under the Seal of the High Admiral, or the Commissioners for Executing the Office of High Admiral of *England*. And further, Our express Will and pleasure is, and We do by these presents, for Us, our Heirs and Successors, ordain and appoint that these our Letters, Patents shall not in any manner Emure, or be taken to abridge, barr or hinder any of our loving Subjects whatsoever, to use and exercise the Trade of Fishing upon the Coasts of *New-England*, but that they and every of them shall have full and free Power and Liberty to continue and use their said Trade of Fishings upon the said Coasts, in any of the Seas thereunto adjoining, or any Arms of the said Seas or Salt-water Rivers where they have been wont to Fish; and to build and set upon the Lands within our said Province or Colony, lying waste, and not then possess'd by particular Proprietors, such Wharfs, Stages and Work-houses, as shall be necessary for the salting, drying, keeping and packing of their Fish, to be taken or gotten upon that Coast, and to cut down and take such Trees and other Materials there growing, or being upon any parts or places lying waste, and not then in possession of particular Proprietors, as shall be needful for that

that purpose, and for all other necessary easements, helps and advantages concerning the Trade of Fishing there, in such manner and form as they have been heretofore at any time accustomed to do, without making any willful waste or spoil, any thing in these Presents contained to the contrary notwithstanding. And Lastly, for the better providing and furnishing of Masts for our Royal Navy, We do hereby reserve to Us, our Heirs and Successors, all Trees of the Diameter of twenty four Inches, and upwards of twelve Inches from the ground, growing upon any Soil or Tract of Land within our said Province or Territory, not heretofore granted to any private Persons: And We do restrain and forbid all Persons whatsoever from selling, cutting or destroying any such Trees without the Royal License of Us, our Heirs and Successors, first had and obtained, upon Penalty of Forfeiting One Hundred Pounds Sterling unto Us, our Heirs and Successors, for every such Tree so felled, cut or destroyed, without such License had or obtained in that behalf, any thing in these Presents contained to the contrary Notwithstanding. *In Witness whereof*, We have caused these our Letters to be made Patents. Witness our Selves at *Westminster*, the seventh day of *October*, in the Third Year of our Reign.

Trees fit for
Masts not
growing up
on any Soil
granted to
particular
persons to be
preserved.

By Writ of Privy Seal.

P I G O T.

2000

TO GO

ACTS AND LAWS,

Of His
Majesties Province of the Massachusetts-
Bay, in
New-England.



B O S T O N.

Printed by *Bartholomew Green*, and *John Allen*, (Printers
to His Excellency the GOVERNOUR and COUNCIL,)
for, and Sold by *Michael Perry* at his Shop over against
the Town-House, and *Benjamin Eliot* under the West-
End of the Town-House. 1699.



Re-printed,

**By Order of His Excellency the Governour,
Council and Assembly.**

Isaac Addington Secr.



Building with Stone or Brick.

3

Acts and Laws,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*. Begun and Held at *Boston* the Eighth of *June* 1692. and continued by Adjournment unto the Twelfth day of *October* following.

An Act for Building with Stone or Brick in the Town of *Boston*, and preventing Fire.

WHEREAS Great Desolations and Ruins have sundry times happened by Fire breaking out in the Town of *Boston*, principally occasioned by reason of the joyning and nearness of the Buildings, being mostly of Timber, and covered with Shingle.
For the better preventing of such Accidents for the future, and Damage and Loss thereby.

Be it Ordained and Enacted by the Governour, Council and Representatives, Convened in General Court or Assembly. And it is Enacted by the Authority of the same, That henceforth no Dwelling-House, Shop, Ware-house, Barn, Stable, or any other Housing of more than Eight Feet in Length, or Breadth, and Seven Feet in Height, shall be Erected and Set up in *Boston*, but of Stone or Brick, and covered with Slate or Tyle, unless in particular cases where necessity requires; being so judged and signified in writing under the Hands of the Justices and Select-men of the said Town, or major part of both; the Governour with the Advice and Consent of the Council shall see cause to Grant Licence unto any person to Build with Timber, or cover with Shingle. And if any person shall presume to Erect, or cause to be Erected, any Frame or Building contrary hereto; upon Conviction thereof, before two Justices of Peace (*Quorum Unus*) such Building shall be deemed a common Nuisance, and the Owner of such Frame or Building shall enter into a Recognizance to Demolish the same; and in Default of Entering into such Recognizance, shall be Committed to Prison, until he do cause the same to be Demolished; or else such Building shall be Demolished by Order of the Quarter Sessions of the Peace within the said County, and the Charges thereof to be Levied by Distress, and Sale of such Offenders Goods, by Warrant from the Court of Quarter Sessions.

Buildings in *Boston* to be of Brick or Stone, and covered with Slate.

Governour and Council to grant Licence to Build with Timber in Case. Penalty for transgressing this Act.

And it is further Ordered and Enacted, That in all Void and Unbuilt Places, which shall hereafter be improved for Building, or when at any time any total Consumption or Desolation shall happen in any Street or Lane within the said Town, it shall be in the power of the Justices of the Peace of said Town then in being, together with the Select-Men, or the major part of both, to State and Lay out such Streets, Ways and Passages, as may be most for the Conveniency and Accommodation of the Place: As also where any Desolation has happened, to Regulate and Enlarge other narrow and crooked Lanes or Passages. AND where any particular persons shall have their Land taken away or lessened thereby; a Jury of Twelve Men shall be appointed by two Justices of the Peace, and Sworn to Ascertain the value thereof, to be paid by the person, to whose Land the same shall be added, or by the Neighbourhood or Town, in proportion to the benefit or conveniency any shall have thereby. And every person Building as aforesaid with Brick or Stone, shall have liberty to Set half his Partition Wall in his Neighbours

Justices and Select-men to lay out Streets, &c.

A Jury to Ascertain the value of any Persons Land laid to any Street.

Administration of Intestate Estates.

Party Wall
to stand half
in the Neigh-
bours
ground.

Ground, so that he leave Tooothing in the Corners of such Walls for his Neighbour to adjoyn unto, who when he shall Build, such Neighbour adjoyning, shall pay for one half of the said Partition Wall, so far as it shall be Built against And in case of any Difference arising, the Select men shall have power to appoint meet persons to value the same, or lay out the Line between such Neighbours And whereas several Houses and other Buildings have been Erected and Set up since the year 1688. contrary to the Law made by the General Court of the *Massachusetts* Colony.

It is hereby Ordained and Enacted by the Authority aforesaid, That every Owner of such House and Buildings so Set up, contrary to said Law, shall cause the same to be Covered with Slate or Tyle; or otherwise such Houses or Buildings shall be deemed a common Nufance, and the Owner thereof Proceeded against accordingly.

Two or
three of the
chief Milita-
ry Officers
to order the
pulling down
or blowing
up of Hou-
ses to stop
Fire.

And be it further Enacted and Declared by the Authority aforesaid, That when any Fire shall happen to break out either in *Boston*, or any other Town within this Province, two or three of the Chief Military or Civil Officers of the same Town, shall, or may, and hereby are Impowred to give Directions for the pulling down, or blowing up any such House or Houses that shall be by them adjudged meet to be pulled down or blown up, for the stopping and preventing the further Spreading of the same. And if it shall happen that the pulling down or blowing up any such House or Houses by the Directions aforesaid, shall be the occasion of stopping the said Fire, or that the Fire stop before it come to the same. That then all and every Owner of such House or Houses, shall Receive reasonable Satisfaction, and be paid for the same, by the rest of the Inhabitants, whose Houses shall not be Burnt; who are hereby Impowred to make such Rate or Rates, for the Raising and Levying such Sum and Sums of Money as shall be thought convenient by the Select-men and Justices of said Town for that end.

Where the
Fire is stop-
t by pulling
down or
blowing up
any House
the Owner
to be paid.

Provided always, That if the House where the Fire shall first Begin and Break out, shall be adjudged fit to be pulled down or blown up to hinder the further spreading and increase of the same. That then the Owner of such House shall receive no manner of Satisfaction for the same. Any thing in this Act contained notwithstanding.

An Act for the Settlement and Distribution of the Estates of Intestates.

WHEREAS Estates in these Plantations do consist chiefly of Lands which have been subdued and brought to Improvement, by the Industry and Labour of the Proprietors, with the Assistance of their Children, the younger Children generally having been longest and most Serviceable unto their Parents in that behalf; who have not Personal Estate to give out unto them in Portions or otherwise to Recomence their Labour.

Persons Seiz-
ed of Lands
in fee simple
may dispose
of the same
by will, &c.

Be it therefore Enacted and Ordained by the Governour, Council and Representatives, Convened in General Court or Assembly. And it is Ordained by the Authority of the same, That every person lawfully Seized of any Lands, Tenements, or Hereditaments within this Province, in his own proper right in Fee Simple, shall have power to give, dispose, and devise, as well by his Last Will and Testament in Writing, as otherwise by any Act Executed in his Life, all such Lands, Tenements and Hereditaments to and among his Children or others, as he shall think fit at his Pleasure,

Administration of Intestate Estates.

5

Pleasure. And if no such Disposition, Gift or Devile be made by the Owner of any such Lands, Tenements and Hereditaments; the same shall be subject to a Division, with his Personal Estate, and be a like Distributed, according to the Rules herein after Express'd for Intestate Estates. And when and so often as it shall happen, That any person dyes Intestate; Administration of such Intestates, Goods and Estate shall be granted unto the Widow or next of Kin to the Intestate, or both, as the Judge for Probate of Wills, and granting of Administrations shall think fit, who shall thereupon take Bond with Sureties in manner as is directed by the Statute of the Twenty Second and Twenty Third of Charles the Second, and shall and may proceed to call such Administrators to account for, and touching the Goods of the Intestate: And upon due Hearing and Consideration thereof, (Debts, Funeral and just Expences of all sorts being first allowed) the said Judge shall, and hereby is fully Impowred to Order and make a just Distribution of the Surplusage, or remaining Goods and Estate as well Real as Personal in manner following: *That is to say*, One Third Part of the Personal Estate to the Wife of the Intestate for ever, besides her Dower or Thirds in the Houses and Lands during Life, where such Wife shall not be otherwise Endowed before Marriage, and all the Residue of the Real and Personal Estate by Equal Portions to and among his Children, and such as shall Legally Represent them; (if any of them be dead) other than such Children, who shall have any Estate by Settlement of the Intestate in his life time equal to the others Shares. Children advanced by Settlement, or Portions not equal to the others Shares, to have so much of the Surplusage as shall make the Estate of all to be Equal, except the Eldest Son then Surviving, (where there is no Issue of the First born or of any other Elder Son) who shall have two Shares, or a double portion of the whole; and where there are no Sons, the Daughters shall Inherit as Coparceners. The Division of the Houses and Lands to be made by five sufficient Freeholders upon Oath, or any Three of them, to be Appointed and Sworn by the Judge for that end: unless where all the Parties Interested in any Estate being Legally capable to Act, shall mutually agree of a Division among themselves, and present the same in Writing under their Hands and Seals; in which case, such Agreement shall be accepted and allowed for a Settlement of such Estate, and be accounted valid in Law, being Acknowledged by the Parties Subscribing before the Judge, and put upon Record.

Administrators to the Estate of Intestates. how to be granted.

Distribution of Intestate Estates.

Provided Nevertheless, That where any Estate in Houses and Lands cannot be divided among all the Children, without great prejudice to, or spoiling of the whole; being so Represented, and made to appear unto the said Judge, the Judge may order the whole unto the Eldest Son, if he accept it, or to any other of the Sons successively, upon his Refusal: He paying unto the other Children of the Deceased, their equal and proportionable Parts or Shares of the true value of such Houses and Lands. Upon a just Appraisalment thereof, to be made by Three Sufficient Freeholders upon Oath, to be Appointed and Sworn as aforesaid, or giving good Security to pay the same in some convenient time, as the said Judge shall Limit, making reasonable allowance in the interim, not exceeding six per Cent. per Annum. And if any of the Children happen to Dye, before he or she come of Age, or be Married; the Portion of such Child Deceased, shall be equally divided among the Survivors.

Houses and Lands not capable of Division, to be ordered unto the Eldest Son, he paying out proportionable parts to the other Children.

And in case there be no Children, nor any Legal Representatives of them, then one Moiety of the Personal Estate shall be allotted to the Wife of the Intestate for ever; and one Third of the Real Estate, for Term of Life. The Residue both of the Real and Personal Estate, equally to every of the next of Kin of the Intestate, in equal degree, and those who Legally Represent them. No Representatives to be admitted among Collaterals after Brothers and Sisters Children. And if there be

In case there be no Children nor legal Representative of them, the Estate to be allotted to the Wife and next of Kin.

Administration of Intestate Estates.

no Wife, all shall be Distributed among the Children, and if no Child, to the next of Kin to the Intestate in equal degree, and their Legal Representatives as aforesaid, and in no other manner whatsoever. And every one to whom any Share shall be allotted, shall give Bond with Sureties before the said Judge of Probate; if Debts afterwards be made to appear, to Refund and Pay back to the Administrator, his or her Ratable part thereof, and of the Administrators Charges. The Widows Thirds or Dower in the Real Estate, at the Expiration of her Term to be alike Divided as aforesaid. Saving to any Person agrieved at any Order, Sentence or Decree made for the Settlement and Distribution of any Intestate Estate, their Right of Appeal unto the Governour and Council. Every Person so Appealing, giving Security to Prosecute the Appeal with Effect.

Right of Appeal Saved.

See Explanatory Act page

Executors to cause Probate of Wills to be made in thirty days next after the Testators Death.

Penalty for Neglect.

Upon Refusal Administration to be committed: cum Testamento annexo.

Executors by wrong

Bonds for Administration to the County Treasurer, to be put in Suit by the Judge.

Be it further Enacted by the Authority aforesaid, That if any Executor or Executors of the Will of any Person deceased, knowing of their being so named and appointed, shall not within the space of thirty days next after the Decease of the Testator, cause such Will to be proved, and Recorded in the Registers Office, of the same County where the Deceased Person last dwelt; or present the said Will, and declare his or their refusal of the Executorship. Every Executor so neglecting of his or her Trust and Duty in that behalf, (without just Excuse made and accepted for such delay) shall forfeit the Sum of Five Pounds per Month, from and after the Expiration of the said Thirty Days, until he or they shall cause Probate of such Will to be made, or present the same as aforesaid. Every such Forfeiture to be had and recovered by Action, or Information, in the Inferiour Court of Pleas, in the same County: And to be disposed of, one Moiety thereof, to the use of the Poor of the Town, where the Deceased Person last dwelt; and the other Moiety to him or them that shall Inform and Sue for the same. And upon any such refusal of the Executor, or Executors, the Judge shall commit Administration of the Estate of the Deceased, *Cum Testamento annexo* unto the Widow or next of Kin to the Deceased, and upon their refusal, to one or more of the Principal Creditors, as he shall think fit.

And if any person or Persons shall Alienate or Imbezel any of the Goods or Chattels of any person Deceased, before he or they have taken out Letters of Administration, and Exhibited a true Inventory of all the known Estate of the Party Deceased. Every person or persons so acting, shall stand Chargeable, and be liable to the Actions of the Creditors and other persons grieved, as being Executors in their own wrong. And the Judge shall cause a Citation to be made out unto the Widow, or next of Kin; and upon their Neglect of appearance, or refusal, may Commit Administration of any such Estate, to some one or more of the chief Creditors, if accepted by them, or others, as he shall think fit, upon their refusal.

And whereas, according to the former practice of the Courts, Bonds for due Administration of the Estates of Intestates, were taken in the Name of the County Treasurer, and the Obligation made to him, his Successors in said Office or Assigns; many of which are still depending.

It is further Enacted by the Authority aforesaid, That the Judge for Probate of Wills, and Granting of Administrations in the Counties respectively: be, and hereby are fully Impowred and Authorized, to call all such Administrators to account, and if need be, to put the said Bonds or any of them in Suit, who shall be, and hereby are to be held and esteemed the Assignees of the County Treasurer in that behalf to all Intents, Construtions and Purposes in the Law whatsoever.

An Act for Prevention of Frauds and Perjuries.

FOR Prevention of many Fraudulent Practices which are commonly endeavoured to be upheld by Perjury, and Subornation of Perjury.

Be it Enacted and Ordained by the Governour, Council and Representatives Condemned in General Court, and by the Authority of the same, That from and after the last day of December in this present Year One Thousand Six Hundred Ninety and Two. All Leases, Estates, Interests of Freehold, or Term of Years, or any uncertain Interest of, in, or out of any Messuages, Lands, Tenements, or Hereditaments, made or created by Livery and Seisin only, or by Parole, and not put in writing and Signed by the Parties, so making or creating of the same, or their Agents thereunto lawfully Authorized by writing, shall have the Force and Effect of Leases, or Estates at will only, and shall not either in Law or Equity be deemed or taken to have any other or greater Force or Effect; any consideration for making any such Parole Leases or Estates, or any former Law or Usage to the contrary notwithstanding.

Parole Leases and Interest of Freehold shall have the force of Estates at will only.

Except nevertheless, all Leases not exceeding the Term of Three Years from the making thereof, whereupon the Rent Reserved to the Landlord, during such Term shall amount unto two third parts at the least of the full improved value of the thing Demised.

Except Leases not exceeding three years, &c.

And moreover, That no Leases, Estates or Interests, either of Freehold, or Term of Years, or any uncertain Interest of, in, to or out of any Messuages, Lands, Tenements or Hereditaments, shall at any time after the said last day of December, be Assigned, Granted or Surrendered, unless it be by Deed or Note in Writing, Signed by the Party so Assigning, Granting or Surrendering the same, or their Agents thereunto lawfully Authorized by Writing, or by Act and Operation of Law.

No Leases or Estates of Freehold to be granted or surrendered by word.

And be it further Enacted by the Authority aforesaid, That from and after the said last day of December, no Action shall be brought whereby to Charge any Executor or Administrator upon any special Promise to answer Damages out of his own Estate, (2) or whereby to Charge the Defendant upon any special Promise to answer for the Debt, Default or Mis-carriages of another person, (3) or to charge any person upon any Agreement made upon consideration of Marriage, (4) or upon any Contract or Sale of Lands, Tenements or Hereditaments, or any Interest in, or concerning them; (5) or upon any Agreement that is not to be performed within the space of one year from the making thereof; (6) unless the Agreement upon which such Action shall be brought, or some Memorandum or Note thereof shall be in Writing, and Signed by the Party, to be Charged therewith, or some other person thereunto by him lawfully Authorized.

Promises & Agreements by Parole:

And be it further Enacted by the Authority aforesaid, That from and after the said last day of December, all Devises and Bequests of any Lands or Tenements, shall be in Writing, and Signed by the Party so Devising the same, or by some other person in his presence, and by his express Directions, and shall be Attested and Subscribed in the presence of the said Devisor, by three or four credible Witnesses, or else shall be utterly void and of none Effect.

Devises of Lands to be in Writing & attested by three or four Witnesses.

And moreover, no Devise in Writing of Lands, Tenements or Hereditaments, or any Clause thereof, shall at any time after the said last day of December, be

How the same shall be revocable;

December,

Frauds and Perjuries.

ember, be Revocable, otherwise then by some other Will or Codicil in Writing, or other Writing declaring the same, or by Burning, Cancelling, Tearing or Obliterating the same by the Testator himself, or in his presence, and by his directions and consent; (2) But all Devises and Bequests of Lands and Tenements shall remain and continue in full force, until the same be Burnt, Cancelled, Torn or Obliterated by the Testator, or his Direction in manner aforesaid, or unless the same be altered by some other Will or Codicil in Writing, or other Writing of the Devisor, Signed in the presence of three or four Witnesses, declaring the same; any former Law or Usage to the contrary Notwithstanding.

All Declarations or Creations of Trust to be in Writing.

Trusts arising, transferred or extinguished by implication of Law excepted.

Assignments of Trust shall be in writing.

Contract for Sale of Goods for Ten Pounds or more.

Nuncupative Wills.

Not to be good for above the value of Thirty Pounds, that is not proved by the Oaths of three Witnesses.

And be it further Enacted by the Authority aforesaid, That from and after the said last day of December, all Declarations or Creations of Trusts, or Confidences of any Lands, Tenements or Hereditaments, shall be manifested and proved by some Writing, Signed by the Party who is by Law enabled to declare such Trust, or by his last Will in Writing, or else they shall be utterly void and of none effect.

Provided always, That where any Conveyance shall be made of any Lands or Tenements, by which a Trust or Confidence shall or may arise or result by the Implication or Construction of Law, or be Transferred or Extinguished by an Act or Operation of Law, then, and in every such case, such Trust or Confidence shall be of the like Force and Effect as the same would have been, if this Act had not been made; any thing herein before contained to the contrary notwithstanding.

And be it further Enacted, That all Grants and Assignments of any Trust or Confidence, shall likewise be in Writing, Signed by the Party, Granting or Assigning the same by such Last Will or Devise, or else shall be utterly void and of none Effect.

And be it further Enacted by the Authority aforesaid, That from and after the said last day of December, No Contract for the Sale of any Goods, Wares and Merchandizes, for the price of Ten Pounds, or upwards, shall be allowed to be good, except the Buyer shall accept part of the Goods so Sold, and actually receive the same, or give something in Earnest to bind the Bargain, or in part of payment, or that some Note or Memorandum in Writing of the said Bargain, be Made and Signed by the Parties to be Charged by such Contract, or their Agents thereunto lawfully Authorized.

And for prevention of Fraudulent Practices, in Setting up Nuncupative Wills, which have been the occasion of much Perjury.

Be it Enacted by the Authority aforesaid, That from and after the aforesaid last day of December, No Nuncupative Will shall be good, where the Estate thereby Bequeathed, shall exceed the value of Thirty Pounds, that is not proved by the Oaths of Three Witnesses (at the least) that were present at the making thereof, nor unless it be proved that the Testator at the time of pronouncing the same, did bid the persons present, or some of them bear witness, that such was his Will, or to that effect; nor unless such Nuncupative Will were made in the time of the last Sickness of the Deceased, and in the House of his or their Habitation or Dwelling, or where he or she hath been Resident, for the space of ten days or more, next before the making of such Will, except where such person was surprized or taken Sick, being from his own Home, and Dyed before he returned to the place of his or her Dwelling.

And be it further Enacted, That after six months passed after the speaking

Judgments and Executions.

9

Speaking of the pretended Testamentary Words, no Testimony shall be received to prove any Will Nuncupative, except the said Testimony, or the Substance thereof were committed to writing within six days after the making of the said Will.

No Testimony to be received to prove such Will after six months, Except &c.

And be it further Enacted, That no Letters Testamentary, or Probate of any Nuncupative Will, shall pass the Seal of any Court, till fourteen days at the least after the Decease of the Testator, be fully expired, nor shall any Nuncupative Will be at any time received to be proved, unless Process have first issued to call in the Widow, or next of Kindred to the Deceased, to the end they may contest the same, if they please.

Probate of Nuncupative Wills.

And be it further Enacted, That no Will in Writing, concerning any Goods or Chattels, or Personal Estate, shall be Repealed; nor shall any Clause, Devise or Bequest therein, be altered or changed by any Words, or Will by word of mouth only, except the same be in the Life of the Testator, committed to Writing, and Read to the Testator, and allowed by him, and proved to be so done by Three Witnesses at the least.

No written Will to be repealed but by writing.

Provided always, That notwithstanding this Act, any Souldier being in actual Military Service, or any Mariner or Seaman being at Sea, may dispose of his Moveables, Wages, and Personal Estate, as he or they might have done before the making of this Act.

Souldiers & Mariners Wills excepted.

An Act for Affirming of former Judgments, and providing for Executions.

WHEREAS upon Tryals had in the late Courts of Judicature within the several Colonies, now by Their Majesties Royal Charter United and Incorporated into one Province, by the name of the Province of the Massachusetts Bay, several Judgments were obtained, of which Execution remains to be done, and some others are depending by Appeal, according to the course and practice of the Courts then in being. To the end that there be no failure of Justice for want of a due course of Law, for the prosecuting, obtaining and levying of the same.

Be it Enacted and Ordained by the Governour, Council and Representatives, Chosen in General Court or Assembly, and by the Authority of the same, That where any Appeal as aforesaid is depending, having not been heard; every such Appellant shall have a Summons from the Clerk of the Superiour Court, unto the adverse party, to be Served upon him seven days inclusive before the Courts sitting, requiring him to appear at the first Superiour Court, to answer the said Appeal; where the same shall be heard and tryed according to former Usage upon the first Evidence and no other: And the Judgment to be affirmed or reversed as the Case shall there be Judged upon Tryal. And if the Appellant neglect to appear, or prosecute his Appeal, the former Judgment shall be affirmed, and Execution awarded accordingly.

And it is further Enacted by the Authority aforesaid, That where Judgment has passed in any County Court, or Court of Commissioners, and Execution has not been taken out and levied for satisfying of the same; the Party for whom any Judgment was so given, his Executors or Administrators shall have a Writ of *Seire Facias* from the Clerk of the Inferiour Court of Pleas within the same County, in which such Judgment was obtained,

B

tained,

Criminal Offenders.

by the Cooper as aforesaid, on pain of Forfeiture of all such Cask as are not of due Affize. And if any Tarr shall be exposed to Sale in any Cask not branded as aforesaid, the same shall be likewise Forfeited.

One half of the Fines & Forfeitures to be unto Their Majesties, and the other half to the Informer. **And further it is Enacted by the Authority aforesaid,** That all Fines, Penalties and Forfeitures arising by force & virtue of this Act, shall be the one half to Their Majesties, towards the Support of the Government of this Province; and the other half to him or them that shall Inform and Sue for the same in any of Their Majesties Courts of Record within this Province.

Measurer of Salt, & Culler of Fish. **Be it further Enacted by the Authority aforesaid,** That there be a Measurer of Salt, and Culler of Fish in every Sea-port Town within this Province, to be appointed as aforesaid, who being likewise Sworn for the faithful Discharge of that Office, shall Cull all Merchantable Fish, and Measure all Salt that shall be Imported and Sold out of any Ship or other Vessel, and shall have *Three-half pence* for every Hoghead of Salt by him so Measured, to be paid, the one half by the Buyer, the other half by the Seller. And *One penny per Quintal*, for every Quintal of Merchantable Fish by him Culled, to be paid, one half by the Buyer, and the other half by the Seller.

An Act for the Punishing of Criminal Offenders.

Curfing and Swearing. **B**E it Enacted and Ordained by the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That if any person or persons shall prophanely Swear or Curse in the hearing of any Justice of the Peace, or shall be thereof Convicted by the Oaths of two Witnesses, or Confession of the party, before any Justice or Justices of the Peace. Every such Offender shall forfeit and pay unto the use of the Poor of the Town, where the Offence shall be Committed, the Sum of *Five Shillings*. And if the Offender be not able to pay the said Sum, then to be set in the Stocks, not exceeding two hours. And if any person shall utter more profane Oaths or Curses at the same time, and in hearing of the same person or persons, he shall forfeit and pay to the use aforesaid the Sum of *Twelve pence* for every Oath or Curse after the first; or be set in the Stocks three hours. *Provided* that every Offence against this Law shall be Complained of and proved as aforesaid within thirty days next after the Offence committed.

Drunkenness. **Further it is Enacted by the Authority aforesaid,** That every person Convicted of Drunkenness by view of any Justice of Peace; Confession of the party, or Oaths of Two Witnesses; such person so Convicted, shall forfeit and pay unto the use of the Poor of the Town where such Offence is Committed, the Sum of *Five Shillings* for every such Offence: And if the Offender be unable to pay the said Sum, to be set in the Stocks, not exceeding three hours; at the Discretion of the Justice or Justices, before whom the Conviction shall be. And upon a second Conviction of Drunkenness, every such Offender, over and above the penalty aforesaid, shall be Bound with two Sureties in the Sum of *Ten Pounds* with Condition for the good Behaviour: And for want of such Sureties, shall be sent to the Common Goal, until he find the same. *Provided*, That no person shall be Impeached or Molested for any Offence against this Act, unless he shall be thereof Presented, Indicted or Convicted within Six Months after the Offence Committed. And the Justice or Justices before whom Conviction of

Criminal Offenders.

13

of any of the aforesaid Offences shall be, are hereby Impowred and Authorized to Restrain or Commit the Offender, until the Fine Imposed for such Offence, be satisfied; or to cause the same to be Levied by Distress, and Sale of the Offenders Goods, by Warrant directed to the Constable; returning the Over-plus (if any be) All such Fines to be Levied within one Week next after such Conviction, and Delivered to the Select-men, or Overseers of the Poor, for the Use of the Poor as aforesaid.

It is further Enacted and Ordained by the Authority aforesaid, That whosoever shall Steal or Purloin any Money, Goods or Chattels, being thereof Convicted, by Confession, or sufficient Witnesses upon Oath: Every such Offender, shall Forfeit treble the value of the Money, Goods or Chattels so Stollen or Purloined, unto the Owner, or Owners thereof; and be further punished, by Fine or Whipping; at the discretion of the Court or Justices, that have Cognizance of such Offence; not exceeding the Sum of *Five Pounds*, or Twenty Stripes. And if any such Offender be unable to make Restitution, or pay such Threefold Damages; such Offender shall be Enjoyed to make Satisfaction by Service: And the Prosecutor shall be, and hereby is Impowred to dispose of said Offender in Service to any of Their Majesties Subjects, for such Term as shall be Assigned by the Court or Justices before whom the Prosecution was. And every Justice of Peace in the County where such Offence is Committed, or where the Thief shall be Apprehended, is hereby Authorized to hear and determine all Offences against this Law. *Provided*, That the Damage exceed not the Sum of *Forty Shillings*.

Theft.

And if any Person shall Commit Burglary, by Breaking up any Dwelling-House, Ware-House, Shop, Mill, Malt-house, Barn, Out House, or any Ship or other Vessel lying within the Body of the County, or shall Rob any Person in the Field or High ways: Every Person so Offending, shall upon Conviction, be Branded on the Forehead with the Letter B. and upon a second Conviction, shall be Set upon the Gallows for the space of one Hour, with a Rope about his Neck, and one end thereof cast over the Gallows; and be severely Whipt, not exceeding Thirty Nine Stripes: And upon a Third Conviction of the like Offence, shall suffer the pains of Death, as being In-corrigible; and shall likewise upon the First and Second Convictions, pay treble Damages to the Party Injured, as is provided in case of Theft.

Burglary.
& Robbery.

And it is further Enacted by the Authority aforesaid, That if any man Commit Fornication with any single Woman; upon due Conviction thereof, they shall be Fined unto Their Majesties, not exceeding the Sum of *Five Pounds*; or be Corporally punished by Whipping, not exceeding Ten Stripes a piece, at the discretion of the Sessions of the Peace, who shall have Cognizance of the Offence. And he that is Accused by any Woman, to be the Father of a Bastard Child Begotten of her Body; she continuing constant in such Accusation, being Examined upon Oath, and put upon the Discovery of the Truth in the Time of her Travail; shall be adjudged the Reputed Father of such Child, notwithstanding his Denial; and stand charged with the Maintenance thereof, with the Assistance of the Mother; as the Justices in the Quarter Sessions shall Order; and give Security to perform the said Order, and to save the Town or Place where such Child is Born, free from Charge for its Maintenance; and may be Committed to Prison, until he find Sureties for the same: Unless the Pleas and Proofs made and produced on the behalf of the man accused, and other circumstances be such as the Justices shall see reason to judge him innocent, and acquit him thereof, and otherwise dispose of the Child. And every Justice of the Peace upon his Discretion, may bind to the next Quarter Sessions, him that is Charged or Suspected, to have Begotten a Bastard Child: and if the Woman be not then Delivered, the Sessions may Order the continuance or Renewal

Fornication.

Reputed Father of a Bastard.

Criminal Offenders.

by the Cooper as aforesaid, on pain of Forfeiture of all such Cask as are not of due Affize. And if any Tart shall be exposed to Sale in any Cask not branded as aforesaid, the same shall be likewise Forfeited.

One half of the Fines & Forfeitures to be unto Their Majesties, and the other half to the Informer.

And further it is Enacted by the Authority aforesaid, That all Fines, Penalties and Forfeitures arising by force & virtue of this Act, shall be the one half to Their Majesties, towards the Support of the Government of this Province; and the other half to him or them that shall Inform and Sue for the same in any of Their Majesties Courts of Record within this Province.

Measurer of Salt, & Culler of Fish.

Be it further Enacted by the Authority aforesaid, That there be a Measurer of Salt, and Culler of Fish in every Sea-port Town within this Province, to be appointed as aforesaid, who being likewise Sworn for the faithful Discharge of that Office, shall Cull all Merchantable Fish, and Measure all Salt that shall be Imported and Sold out of any Ship or other Vessel, and shall have *Three-half pence* for every Hoghead of Salt by him so Measured, to be paid, the one half by the Buyer, the other half by the Seller. And *One penny per Quintal*, for every Quintal of Merchantable Fish by him Culled, to be paid, one half by the Buyer, and the other half by the Seller.

An Act for the Punishing of Criminal Offenders.

Curfing and Swearing.

Presumption

BE it Enacted and Ordained by the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That if any person or persons shall prophanely Swear or Curse in the hearing of any Justice of the Peace, or shall be thereof Convicted by the Oaths of two Witnesses, or Confession of the party, before any Justice or Justices of the Peace. Every such Offender shall forfeit and pay unto the use of the Poor of the Town, where the Offence shall be Committed, the Sum of *Five Shillings*. And if the Offender be not able to pay the said Sum, then to be set in the Stocks, not exceeding two hours. And if any person shall utter more profane Oaths or Curses at the same time, and in hearing of the same person or persons, he shall forfeit and pay to the use aforesaid the Sum of *Twelve pence* for every Oath or Curse after the first; or be set in the Stocks three hours. *Provided* that every Offence against this Law shall be Complained of and proved as aforesaid within thirty days next after the Offence committed.

Drunkenness

Further it is Enacted by the Authority aforesaid, That every person Convicted of Drunkenness by view of any Justice of Peace; Confession of the party, or Oaths of Two Witnesses; such person so Convicted, shall forfeit and pay unto the use of the Poor of the Town where such Offence is Committed, the Sum of *Five Shillings* for every such Offence: And if the Offender be unable to pay the said Sum, to be set in the Stocks, not exceeding three hours; at the Discretion of the Justice or Justices, before whom the Conviction shall be. And upon a second Conviction of Drunkenness, every such Offender, over and above the penalty aforesaid, shall be Bound with two Sureties in the Sum of *Ten Pounds* with Condition for the good Behaviour: And for want of such Sureties, shall be sent to the Common Goal, until he find the same. *Provided*, That no person shall be Impeached or Molested for any Offence against this Act, unless he shall be thereof Presented, Indicted or Convicted within Six Months after the Offence Committed. And the Justice or Justices before whom Conviction

of

Criminal Offenders.

13

of any of the aforesaid Offences shall be, are hereby Impowred and Authorized to Restraine or Commit the Offender, until the Fine Imposed for such Offence, be satisfied; or to cause the same to be Levied by Distress, and Sale of the Offenders Goods, by Warrant directed to the Constable; returning the Over-plus (if any be) All such Fines to be Levied within one Week next after such Conviction, and Delivered to the Select-men, or Overseers of the Poor, for the Use of the Poor as aforesaid.

It is further Enacted and Ordained by the Authority aforesaid, That whosoever shall Steal or Purloin any Money, Goods or Chattels, being thereof Convicted, by Confession, or sufficient Witness upon Oath: Every such Offender, shall Forfeit treble the value of the Money, Goods or Chattels so Stollen or Purloined, unto the Owner or Owners thereof; and be further punished, by Fine or Whipping; at the discretion of the Court or Justices, that have Cognizance of such Offence; not exceeding the Sum of *Five Pounds*, or Twenty Stripes. And if any such Offender be unable to make Restitution; or pay such Threefold Damages; such Offender shall be Enjoyned to make Satisfaction by Service: And the Prosecutor shall be, and hereby is Impowred to dispose of said Offender in Service to any of Their Majesties Subjects, for such Term as shall be Assigned by the Court or Justices before whom the Prosecution was. And every Justice of Peace in the County where such Offence is Committed, or where the Thief shall be Apprehended, is hereby Authorized to hear and determine all Offences against this Law. *Provided*, That the Damage exceed not the Sum of *Forty Shillings*.

Theft.

And if any Person shall Commit Burglary, by Breaking up any Dwelling-House, Ware-House, Shop, Mill, Malt-house, Barn, Out House, or any Ship or other Vessel lying within the Body of the County, or shall Rob any Person in the Field or High ways: Every Person so Offending, shall upon Conviction, be Branded on the Forehead with the Letter B. and upon a second Conviction, shall be Set upon the Gallows for the space of one Hour, with a Rope about his Neck, and one end thereof cast over the Gallows; and be severely Whipt, not exceeding Thirty Nine Stripes: And upon a Third Conviction of the like Offence, shall suffer the pains of Death, as being Incurable; and shall likewise upon the First and Second Convictions, pay treble Damages to the Party Injured, as is provided in case of Theft.

Burglary.
& Robbery.

And it is further Enacted by the Authority aforesaid, That if any man Commit Fornication with any single Woman; upon due Conviction thereof, they shall be Fined unto Their Majesties, not exceeding the Sum of *Five Pounds*; or be Corporally punished by Whipping, not exceeding Ten Stripes a piece, at the discretion of the Sessions of the Peace, who shall have Cognizance of the Offence. And he that is Accused by any Woman, to be the Father of a Bastard Child Begotten of her Body; she continuing constant in such Accusation, being Examined upon Oath, and put upon the Discovery of the Truth in the Time of her Travail; shall be adjudged the Reputed Father of such Child, notwithstanding his Denial; and stand charged with the Maintenance thereof, with the Assistance of the Mother; as the Justices in the Quarter Sessions shall Order; and give Security to perform the said Order, and to save the Town or Place where such Child is Born, free from Charge for its Maintenance; and may be Committed to Prison, until he find Sureties for the same: Unless the Pleas and Proofs made and produced on the behalf of the man accused, and other circumstances be such as the Justices shall see reason to judge him innocent, and acquit him thereof, and otherwise dispose of the Child. And every Justice of the Peace upon his Discretion, may bind to the next Quarter Sessions, him that is Charged or Suspected, to have Begotten a Bastard Child: and if the Woman be not then Delivered, the Sessions may Order the continuance or Renewal

Fornication.

Reputed Father of a Bastard.

Criminal Offenders.

of his Bond, that he may be forth coming when the Child is Born

Power of the
Justice of
Peace,

Breach of
the Peace.
Forcible En-
try and
detainer.

Lying and
Libelling

Forgery.

Further it is Enacted by the Authority aforesaid, That every Justice of the Peace in the County where the Offence is Committed, may cause to be Staid and Arrested all Affrayers, Rioters, Disturbers or Breakers of the Peace, and such as shall ride, or go armed offensively before any of Their Majesties Justices, or other Their Officers or Ministers doing their Office, or elsewhere, by Night or by Day, in fear or affray of Their Majesties Liege People; and such others as shall utter any Menaces or Threatning Speeches: And upon view of such Justice or Justices, confession of the party, or other Legal Conviction of any such Offence, shall Commit the Offender to Prison, until he find Sureties for the Peace and good Behaviour; and seize and take away his Armour or Weapons, and shall cause them to be apprized and answered to the King as forfeited: And may further punish the Breach of the Peace in any person that shall smite or strike another, by Fine to the King, not exceeding *Twenty Shillings*; and require Bond with Sureties for the Peace; or Bind the Offender over to answer it at the next Sessions of the Peace, as the nature or circumstance of the Offence may be; and may make enquiry of forcible entry and detainer, and cause the same to be removed; and make out Hue and Cries after Runaway Servants, Thiefs and other Criminals.

And it is further Enacted, by the Authority aforesaid, That if any person or persons of the Age of Discretion (which is accounted fourteen years, or upwards) shall wittingly and willingly make or publish any Lye or Libel, tending to the defamation or damage of any particular person; make or spread any false News or Reports, with intent to abuse and deceive others: Every such person or persons offending in any of the particulars before-mentioned, and being duly convicted thereof, before one or more Justices of the Peace, shall be Fined according to the degree of such Offence; not exceeding the Sum of *Twenty Shillings* for the first conviction, and find Sureties for the good Behaviour. And if the Party be unable to pay the said Fine, then to be set in the Stocks, not exceeding three hours; or be corporally punished by Whipping, at the discretion of the Justice or Justices, before whom the Conviction shall be; according as the circumstances or nature of the Offence shall be. And the said Justice or Justices may restrain and commit the Offender, until he pay the said Fine, and find Sureties for the good Behaviour; or may cause the fine to be Levied by Distress and Sale of the Offenders Goods. And the Party or Parties grieved or injured by reason of any of the Offences aforesaid; shall or may take his or their Suit against any such Offender or Offenders in any Court of Record

It is further Enacted by the Authority aforesaid, That if any person or persons upon his or their own Head or Imagination, or by false Conspiracy and Fraud with others, shall wittingly, subtilly and falsely forge or make; or subtilly cause, or wittingly assent to be forged or made any false deed, conveyance or writing Sealed, or the Will of any person or persons in Writing to the intent that the State of Freehold or Inheritance, Right, Title or Interest of any person or persons of, in, or to any Lands, Tenements or Hereditaments shall or may be molested, troubled, defeated, recovered or charged; or shall as is aforesaid, forge, make, or cause, or assent to be made, or forged, any Obligation, or Bill Obligatory, Letter of Attorney, or any Acquittance, Release, or other Discharge of any Debt, Accompt, Action, Suit, Demand, or other thing personal; Or if any person or persons shall Pronounce, Publish, or shew forth in evidence, any such false and forged Deed, Conveyance, Writing, Obligation, Bill Obligatory, Letter of Attorney, Acquittance, Release or Discharge, as true, knowing the same to be false

Criminal Offenders.

15

false and forged as is aforesaid, to the intent above remembered; and shall be thereof convicted, either upon action or actions of Forger of false Deeds to be founded upon this Act at the Suit of the party grieved, or otherwise according to the order and due course of Law, or upon Bill or Information. That then every such Offender shall pay unto the party grieved his double costs and damages, to be found and assessed in such Court where the said Conviction shall be; and also shall be set upon the Pillory in some Market Town, or other open place, and there to have one of his ears cut off; and also shall have and suffer Imprisonment by the space of one whole year, without bail or mainprize. And the Party or Parties grieved by reason of any of the Offences aforesaid, may take his or their Suit against any such Offender or Offenders, in any Court of Record; where no Essoign, Injunction or Protection shall be allowed the party defendant.

Provided always, and it is **Enacted** by the Authority aforesaid, That this Act or any thing therein contained, shall not extend to charge any Judge of Probate, or Registrar, with any the offences aforesaid, for putting their Seal of Office to any Will to be exhibited unto them, not knowing the same to be false or forged, for writing of the said Will or Probate of the same. Nor to any other person or persons that shall shew forth or give in Evidence any false or forged writing for true or good, being not party or privy to the forging of the same, nor knowing the same to be false or forged, any thing in this Act to the contrary notwithstanding.

And it is further Enacted and Ordained by the Authority aforesaid, If any person or persons, either by the subornation, unlawful procurement, reward, sinister perswasion, or means of any other; or by their own act, consent or agreement, shall wilfully and corruptly commit any manner of Wilful Perjury, by his or their deposition in any Court of Record, or being examined, *Ad perpetuam rei memoriam*, That then every person and persons so offending, and being thereof duly convicted, or attainted by Law, shall for his or their offence, lose and forfeit *Twenty Pounds*; the one Moiety thereof, unto Their Majesties, and the other Moiety to such person or persons as shall be grieved, hindered or molested by reason of any such offence, that shall sue for the same by Action of Debt, Bill, Plaint, Information, or otherwise in any Court of Record; in the which no Wager of Law, Essoign, Protection, or Injunction to be allowed; And also to have Imprisonment by the space of six months, without bail or mainprize. And the Oath of such person or persons so offending, not to be received in any Court of Record, until such time as the Judgment given against the said person or persons, shall be reversed by attainr or otherwise; and upon every such reversal, the parties agrieved to recover his or their damages against all and every such person and persons, as did procure the said Judgment, so reversed, to be given against them or any of them, by Action or Actions, upon his or their case or cases; according to the course of the common Law.

And it it happen the said Offender or Offenders, so offending, not to have any Goods or Chattels, to the value of *Twenty Pounds*, that then he or they be set on the Pillory by the space of one whole hour, in some Market Town where the offence was committed, or next adjoyning to the place where the Offence was Committed, and to have both his Ears nailed; and from thenceforth to be discredited and disabled for ever to be sworn in any Court of Record, until such time as the Judgment shall be reversed.

And all & every person & persons who shall unlawfully & corruptly procure any Witnes or Witnesses, by Letters, Rewards, Promises, or by any other sinister and unlawul labour or means whatsoever; to commit any wilful and corrupt Perjury, in any matter or cause whatsoever depending, or that shall depend in suit and variance by any Writ, Action, Bill, Complaint or Information in any Court of Record; or to testifie *in perpetuam rei memoriam*: Every such Offender

Unlicensed Houses.

Offender, being thereof duly convicted or attainted by Law, shall for his or their offence be proceeded against, and suffer the like pains, penalties, forfeitures, and disability in all respects as above-mentioned.

See
Additional
Act about
Criminal
Offences,
page

And it is further Enacted by the Authority aforesaid, That all the aforesaid Forfeitures and Sums of Money arising for any offence mentioned in this Act, and every Branch thereof, and not otherwise disposed of; shall be unto Their Majesties, for and towards the Support of the Government of this Province, and the Incident Charges thereof.

An Act for the Suppressing of Unlicensed Houses, and the due Regulation of such as are, or shall be Licensed.

None to
keep a house
of common
Entertainment,
or Sell
strong Drink
publicly or
privately
without Licence
on penalty of Forty
Shillings.
One half to
the Informer
and the other
to the use of
the poor.
Upon second
conviction,
to give bond
for the good
behaviour.
Licences to
be renewed
yearly and
bond given
Justices may
grant Licence
without Certificate
of the Select-
men upon
notice given.

BE it Ordained and Enacted by the Governour, Council and Representatives Convened in General Court, and by the Authority of the same, That no person or persons whatsoever (other than such as upon producing Certificate from the Select men of the Town where they dwell, or who shall be otherwise thought fit by the Justices themselves, shall be Licensed by the said Justices in Quarter Sessions) may presume to be a common Victualler, Inn-holder, Taverner, or Seller of Wine, Beer, Ale, Cyder or strong Liquors by Retail: Nor shall any presume without such Licence, to Sell Wine or strong Liquors privately by a less quantity than a Quarter Cask, and that delivered and carried away all at one time: On pain of forfeiting the Sum of Forty Shillings for every such offence upon due Conviction thereof; one half thereof to the Informer, and the other half to the use of the poor of the Town where such Offence is committed. And upon a second Conviction, besides the forfeiture of Forty Shillings as aforesaid, shall enter into Recognizance with one or more Sureties for the good Behaviour, especially not to transgress the Law in that respect.

Be it further Enacted by the Authority aforesaid, That all Licences be Renewed yearly, and Bond given for the due Observance of the same, and of the Laws, and that the person Licensed, shall use his Licence in such House as shall be therein named, and no other.

And if the Justices in Quarter Sessions shall think fit to Licence any person or persons not presenting a Certificate as aforesaid from the Select-men, the Clerk of the Sessions, before granting Licence to any such, shall signify the name and desire of every such person unto the Select-men of the Town where such person dwells, one month before-hand, that so they may have opportunity and liberty to offer their Objections against it, if any such be.

And forasmuch as the ancient, true and principal use of Inns, Taverns, Ale Houses, Victualling Houses, and other Houses for common Entertainment is for Receipt, Relief and Lodging of Travellers and Strangers, and the Refreshment of persons upon lawful Business; or for the necessary supply of the wants of such poor persons as are not able by greater quantities to make their provision of Victuals, and are not intended for Entertainment and Harboursing of lewd or idle people to spend or consume their Money or time there: Therefore to prevent the Mischief and great Disorders happening daily by the abuse of such Houses.

It is further Enacted by the Authority aforesaid, That no Taverner, Inn-keeper, Ale-house keeper or Victualler, shall have or keep in or about their Houses, Out-Houses, Yards, Backsides, Gardens or Places to them belonging,

Keeping the Lords-Day.

17

ing, any Dice, Cards, Tables, Bowls, Shuffle-board, Billiards, Coyts, Cales, Logats, Games and or any other Implements used in Gaming; nor shall suffer any person or Gaming for- person resorting unto any of their Houses, to use or exercise any of the said bidden in Games, or any other unlawful Game or Sport within their said Houses, or Publick-hou- any of the Dependences as aforesaid, or places to them belonging; on pain ses, on pain of forfeiting the Sum of *Forty Shillings* for every such Offence, upon due con- 40 s. viction thereof; the said Fine to be disposed of as aforesaid. And every Penalty on person convicted of Playing as aforesaid in any such House or Dependences Gamesters. thereof, shall forfeit the Sum of *Six Shillings* and *Eight pence*, to be disposed Penalty for of as aforesaid. giving Evidence

against per- sons Selling without Li- cence. One Justice may hear and determine all Offences a- gainst this Act

And further it is Enacted by the Authority aforesaid, That any person duly Summoned to give in Evidence respecting the Breach of this Act, in any of the Branches thereof, (other than the party himself, his Chil- dren or Servants) that shall refuse to give in upon his Oath, when so requi- red, what he knows relating to the Premises, shall forfeit *Forty Shillings* to the use of the Poor of the Town as aforesaid.

See Act for the better discove- ry &c. of un- licensed hou- ses page Act for sup- pressing of drunkenness page And Act for the Inspecting and Suppress- ing disorders in Licensed houses page

And it is further Enacted by the Authority aforesaid, That every Justice of the Peace in the County where he dwells, as well as the Justices in Quarter Sessions, are hereby respectively Impowred to hear and determine all Offences against this Act, and may commit the Offender to Prison, until he pay the said fine, and enter into Recognizance as aforesaid for the good Behaviour; or may cause the fine to be Levied by Distress and Sale of the Offenders Goods, returning the Overplus, if any be.

An Act for the better Observation and Keeping the Lords-Day.

BE it Enacted and Ordained by the Governour, Council and Re- presentatives Condened in General Court or Assembly, and it is Enacted by the Authority of the same, That all and every per- son and persons whatsoever, shall on that Day carefully apply themselves to Duties of Religion and Piety, publicly and privately; and that no Trades- man, Artificer, Labourer or other person whatsoever, shall upon the Land or Water, do or exercise any Labour, Business, or Work of their ordinary Cal- lings; nor use any Game, Sport, Play or Recreation on the Lords-Day, or any part thereof; (works of necessity and charity only excepted) upon pain that every person so offending shall forfeit *Five Shillings*.

Labour and Sports Prohi- bited on pe- nalty of 5 s.

Further it is Ordered and Declared, That no Traveller, Drover, Horse-Courler, Waggoner, Butcher, Higler, or any their Servants, shall Tra- vel on that Day, or any part thereof, except by some adversity they were be- lated and forced to lodge in the Woods, Wilderness or High ways, the night before; and in such case, to Travel no further than the next Inn or place of shelter, on that Day; upon the penalty of *Twenty Shillings*.

Travelling prohibited on penalty of 20 s.

Further it is Ordered, That no Vintner, Inn holder, or other person keeping any Publick house of Entertainment, shall entertain or suffer any of the Inhabitan s of the respective Towns where they dwell, or others not be- ing Strangers, or Lodgers in such Houses, to abide or remain in their Houses, Yards, Orchards, or Fields drinking, or idly spending their time on *Saturday* night after the Sun is set, or on the Lords-Day, or the Evening following; upon the pain and penalty of *Five Shillings* for every person, payable by themselves

Publick hou- ses not to en- tertain any o- thers than Strangers and Lodgers on penalty of 5 s. for every person.

Common Nufances.

themselves refpectively that fhall be found fo drinking or abiding in any fuch Publick Houfe or Dependences thereof as aforefaid; and the like Sum of *Five Shillings* to be paid by the Keeper of fuch Houfe, for every perfon Enter-tained by them.

One Juftice of the Peace may hear & determine any breach of this Aft.

Fines for breach of this Aft to be to the ufe of the poor.

And for the better Execution of all and every the foregoing Orders, every Juftice of the Peace within his County fhall have power and authority to Convent before him, any perfon or perfons, who fhall offend in any of the particulars before mentioned, and upon his own view, or other legal conviction of any fuch offence, to impofe the fine and penalty for the fame, and to refrain or commit the Offender until it be fatisfied; or to caufe the fame to be levied by diftreff and fale of the Offenders Goods, returning the Over-plus (if any be) and in cafe any fuch Offender be unable or refufe to fatisfie fuch fine, to caufe him to be put in the Cage, or fet in the Stocks, not exceeding three hours: All fines and penalties accruing by this Aft, to be to the benefit and relief of the Poor of fuch Town where the Offence is committed; and delivered into the hands of the Select-men, or Overfeers of the poor for that end.

And all Mafters and Governours of Families are hereby required to take effectual care that their Children, Servants and others under their immediate Government, do not tranfgrefs in any of the foregoing particulars.

Juftices, Conftables, &c. required to fee that this Aft be obferved.

And all and every Juftices of the Peace, Conftables and Tything-men are required to take effectual care, and endeavour that this Aft in all the particulars thereof be duly obferved; as alfo to refrain all perfons from Swimming in the water, unneceffary and unfeafonable walking in the Streets or Fields in the Town of *Boston*, or other places, keeping open their Shops, or following their feccular Occafions or Recreations in the Evening preceeding the Lords Day, or on any part of the faid Day or Evening following.

And all perfons are ftrictly required to be obedient to, and aiding and affifting fuch Juftices, Conftables and other Officers herein, as they will answer the contrary at their peril.

An Aft for prevention of common Nufances arifing by Slaughter-Houfes, Still-Houfes, &c. Tallow Chandlers, and Curriers.

Slaughter Houfes, Still-Houfes, &c. to be in certain places affigned, and no other.

BE it Ordained and Enacted by the Governour, Council and Representatives Convened in General Court or Assembly, and by the Authority of the fame, That the Select men of the Towns of *Boston*, *Salem* and *Charlstown* refpectively, or other Market Towns in the Province, with two or more Juftices of the Peace dwelling in the Town, or two of the next Juftices in the County, fhall at or before the laft day of *March*, One Thouland fix Hundred Ninety Three, Affign fome certain places in each of faid Towns (where it may be leaft offensive) for the Erecting or Setting up of Slaughter-Houfes, for the killing of all Meat: Still-Houfes, and Houfes for trying of Tallow, and currying of Leather, (which Houfes may be Erected of Timber, the Law referring to Building with Brick or Stone notwithstanding) And fhall caufe an Entry to be made in the Town Book, of what places fhall be by them fo Assigned, and make known the fame by posting it up in fome publick places of the Town. At which Houfes and places refpectively, and no other, all Butchers and Slaughter-men, Difkillers, Chandlers and Curriers, fhall exercife and practice their refpective Trades and Myfteries; on pain that any Butcher or Slaughter-man tranfgref-

Marriages.

19

fining of this Act by killing of Meat in any other place, for every Conviction thereof, before one or more Justices of the Peace, shall forfeit and pay the Sum of *Twenty Shillings*. And any Distiller, Chandler or Currier offending against this Act, for every Conviction thereof before Their Majesties Justices at the General Sessions of the Peace for the County, shall forfeit and pay the Sum of *Five Pounds*; one third part of said forfeitures to be to the use of Their Majesties, for the Support of the Government of the Province, and the incident Charges thereof; one third to the Poor of the Town, where such Offence shall be committed; and the other third to him or them that shall Inform and Sue for the same.

And for preventing of Cruelty to Bruit Creatures.

It is further Enacted by the Authority aforesaid, That all Calves, Sheep or Lambs brought alive to the Market, shall be either driven or carried in Carts, Sleds, Panyers or Boats, and not otherwise; on pain of forfeiting of all Calves, Sheep or Lambs passing towards, or brought alive to the Market, laid across, or hanging by the sides of Horses, (as has been usual) or in any other way contrary to the true intent of this Act: one half of all such forfeitures to be unto the Informers, who shall seize and prosecute for the same; and the other Moiety to the use of the poor of the Town, where such seizure shall be made, to be distributed by the Select-men or Overseers of the Poor.

Cruelty to
bruit Crea-
tures forbid-
den.

And all Select-men, Overseers of the Poor, Constables, Tything men and other Officers in any Town upon their own view, or information of any transgression of this Act within their respective Precincts, shall and hereby are Impowred to seize or cause to be seized all Calves, Sheep or Lambs that shall be carried or brought alive to the Market, in any other way than is before directed. And upon due proof thereof, made before one or more Justices of the Peace, shall be forfeited, and the same or the value thereof be disposed of as aforesaid.

Select-men;
Constables,
&c. Impow-
red to seiz.

Flesh blown
or winded to
be forfeited.

See
Additional
Act page

And all Veal or other Meat exposed to Sale, that shall be blown up or winded, shall be alike forfeited and disposed of.

An Act for the orderly consummating of Marriages.

Be it Ordained and Enacted by the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That every Justice of the Peace within the County where he resides, and every settled Minister in any Town, shall, and are hereby respectively Impowred and Authorized to Solemnize Marriages, with in their respective Towns and Counties, betwixt persons that may lawfully enter into such Relation, having the consent of those whose immediate care and Government they are under, and being likewise first Published by asking their Banns at three several Publick Meetings in both the Towns where such parties respectively dwell; or by posting up their names and intentions at some publick place in each of the said Towns, fairly written, there to stand by the space of fourteen days, and producing Certificate of such Publishment under the Hand of the Town-Clerk or Constable of such Towns respectively.

Justices or
Ministers re-
spectively to
Solemnize
Marriages.

Publishment
how to be
made.

And the Fee to be paid for every Marriage, shall be *Three Shillings*; and for Publishment and Certificate thereof, *One Shilling*.

Fee for Mar-
riage, &c.

And be it further Enacted, That whoever shall presume to deface or pull down

Ministers and School-Masters.

Penalty for pulling down publishments down any such Publishment, posted up in writing, before the expiration of the time, shall be fined to the use of the Poor of the Town, the Sum of *Ten Shillings*, being Convicted thereof, before one or more Justices of the Peace: And if the party be unable to pay the said fine, then to be set in the Stocks one whole Hour.

Marriages to be Registered.

See Act to prevent Incestuous Marriages page

Divorce.

And every Justice and Minister shall keep a particular Register of all Marriages Solemnized before any of them, and make a Return thereof at the end of each Quarter of a year unto the Clerk of the Sessions of the Peace within the same County, to be by him Registered; who is hereby Impowred thereto, and shall be paid by every such Justice and Minister, *Three pence* for each Marriage so returned.

And it is further Enacted by the Authority aforesaid, That all Controversies concerning Marriage and Divorce shall be heard and determined by the Governour and Council.

An Act for the Settlement and Support of Ministers and School-Masters.

Contracts & Agreements to be made good.

Neglect of making suitable provision for Ministers to be redressed by the Quarter Sessions.

The Court of Quarter Sessions to take care that no Town be destitute of a Minister.

BE it Ordained and Enacted by the Governour, Council and Representatives, Convened in General Court or Assembly, and by the Authority of the same, That the Inhabitants of each Town w^{ithin} this Province, shall take due care from time to time, to be constantly provided of an Able, Learned Orthodox Minister or Ministers, of good Conversation, to Dispense the Word of God to them; which Minister or Ministers shall be suitably encouraged and sufficiently supported and maintained by the Inhabitants of such Town. And all Contracts, Agreements and Orders heretofore made, or that shall hereafter be made by the Inhabitants of any Town within this Province respecting their Ministers or School-Masters, as to their Settlement or Maintenance, shall remain good and valid according to the true intent thereof, the whole time for which they were or shall be made, in all the particulars thereof, and shall accordingly be pursued, put in Execution and Fulfilled. And where there is no Contract and Agreement made in any Town, respecting the support and maintenance of the Ministry; or when the same happens to be expired, and the Inhabitants of such Town shall neglect to make suitable provision therein; upon complaint thereof made unto the Quarter Sessions of the Peace for the County where such Town lies; the said Court of Quarter Sessions shall and hereby are Impowred to order a competent allowance unto such Minister, according to the Estate and Ability of the Town: the same to be assessed upon the Inhabitants by Warrant from the Court, directed to the Select-men, who are thereupon to proceed to make and proportion such Assessment in manner as is directed for other publick Charges, and to cause the same to be Levied by the Constables of such Town, by Warrant under the Hands of the Select men; or of the Town-Clerk by their Order.

Be it further Enacted by the Authority aforesaid, That where any Town shall be destitute of a Minister qualified as aforesaid, and shall so continue by the space of six months, not having taken due care for the procuring, setting and encouragement of such Minister, the same being made to appear upon complaint unto Their Majesties Justices at the General Sessions of the Peace for the County, the said Court of Quarter Sessions shall and hereby are Impowred to make an Order upon every such defective Town, speedily to provide themselves of such Minister as aforesaid, by the next Sessions

Settling of Bounds.

21

Sessions at the furthest; and in case such Order be not complied with, then the said Court shall take effectual care to procure and Settle a Minister qualified as aforesaid, and order the Charge thereof, and of such Ministers maintenance, to be Levied on the Inhabitants of such Town.

And it is further Enacted by the Authority aforesaid, That the respective Churches in the several Towns within this Province, shall at all times hereafter, use, exercise and enjoy all their Priviledges and Freedoms respecting Divine Worship, Church-Order and Discipline. And shall be encouraged in the peaceable and regular profession and practice thereof.

And further it is Enacted, That every Minister being a person of good Conversation, Able, Learned and Orthodox, that shall be Chosen by the major part of the Inhabitants in any Town, at a Town-Meeting duly warned for that purpose, (notice thereof being given to the Inhabitants fifteen days before the time for such Meeting) shall be the Minister of such Town; and the whole Town shall be obliged to pay towards his Settlement and Maintenance, each man his several proportion thereof.

Repealed.

See
Explanatory
Act,
page

See
Additional
Act, page

And it is further Enacted by the Authority aforesaid, That every Town within this Province, having the number of fifty House holders or upwards, shall be constantly provided of a School-Master to teach Children and Youth to Read and Write. And where any Town or Towns have the number of one hundred Families or Housholders, there shall also be a Grammar School set up in every such Town, and some discreet person of good Conversation, well Instructed in the Tongues procured to keep such School. Every such School-Master to be suitably encouraged and paid by the Inhabitants.

School for
Reading and
Writing.
Grammar
School.

And the Select men and Inhabitants of such Towns respectively, shall take effectual care, and make due provision for the settlement and maintenance of such School-Master and Masters.

School-Masters to be supported.

And if any Town qualified as before express, shall neglect the due observance of this Act, for the procuring and setting of any such School-Master as aforesaid, by the space of one year. Every such defective Town shall incur the penalty of Ten Pounds for every conviction of such neglect, upon complaint made unto Their Majesties Justices in Quarter Sessions for the same County in which such defective Town lieth; which penalty shall be toward the support of such School or Schools within the same County, where there may be most need, at the discretion of the Justices in Quarter Sessions; to be levied by Warrant from the said Court of Sessions in proportion upon the Inhabitants of such defective Town, as other publick Charges, and to be paid unto the County Treasurer.

Penalty for neglect.

An Act for the Settlement of the Bounds, & Defraying of the publick and necessary Charges arising within each respective County in this Province.

BE it Ordained and Enacted by the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That all Counties as they now lye, and are named, continue and remain distinct Counties to all intents and purposes in the Law whatsoever. And that there be a County Treasurer annually Chosen for each respective County, being a Freeholder with-

Counties to continue as formerly.

Townships and Town-Officers.

Choice of
County
Treasurer.

in the same; and to be Chosen by the Votes of the Freeholders, and other Inhabitants of each respective Town, duly qualified as is provided by the Act for the choice of Select-men, and other Town Officers; and at the same time, such Votes to be given in Writing, and Sealed up by the Constable, by him to be kept and returned unto the next Quarter Sessions, to be held for said County, there to be opened and sorted by such as the Court shall appoint, in presence of the Justices; and the person having the majority of said Votes, shall be Treasurer of such County for that year, and be Sworn before said Court.

And for the due and equal Raising of Monies for Defraying of the Charges arising within each respective County, for the necessary repairs and amendment of Bridges, Prisons, the maintainance of poor Prisoners, and all other proper County Charges.

County
Charges
how to be
defrayed.

It is further Enacted by the Authority aforesaid, That when and so often from time to time as there shall be need of raising Money for the ends aforesaid, in any County; the Justices in Quarter Sessions for such County, receiving Information thereof from the County Treasurer, shall agree and determine the whole Sum to be raised, and each respective Towns proportion of the same, as near as may be according to the rule for raising of Money for the Province Charges, and shall issue forth their Order unto the Select-men of the respective Towns to assess the same upon the Inhabitants of such Town, each one his due and equal proportion thereof according to the Rule before-mentioned, as near as may be, to be paid in Money, or equivalent thereto; and to make a distinct List of each persons name and proportion, under their Hands; and such List commit unto the Constable or Constables of such Town, with a Warrant signed by the Town Clerk, directed unto the said Constable or Constables to levy and collect the said assessment, of each one his respective proportion: And to pay in their said Collections unto the County Treasurer, or his Order, within the time set for the same: And to make distress upon every person neglecting or refusing to make payment: And in default of Goods or Chattels whereon to make distress, to commit the party to the common Goal of the County, until he make payment, or otherwise be released by the Justices in Quarter Sessions. And if any person or persons think themselves over-rated in any such assessment, they shall be eased by the Assessors, making the same to appear; or in default thereof, by the Court of Quarter Sessions.

Money how
to be applied

Treasurer to
Account.

And further it is Enacted, That all Monies so Collected, be improved and employed for the ends within mentioned, as the Court of Quarter Sessions shall from time to time by their Order in writing, direct and appoint. And the County Treasurer in each respective County, shall Account unto the Court of Quarter Sessions, or whom they shall appoint, for all his Receipts and Payments.

Bounds of
Townships
to continue
as heretofore
granted and
sealed: And
to be run, &
marks re-
newed once
in three
years under
a penalty.

An Act for Regulating of Townships, choice of Town-Officers, and setting forth their Power.

BE it Ordained and Enacted by the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That the Bounds of all Townships shall be, & continue as heretofore granted and sealed respectively, and shall be run betwixt Town and Town, and marks renewed once in three years, by two of the Select-men of each Town, or any other two persons whom the Select;

Townships and Town-Officers.

23

Select men shall Appoint; the Select men of the most ancient Town to give notice unto the Select men of the next adjacent Towns, of the time and place of Meeting for such Perambulation, six days before-hand, on pain of forfeiting *Five Pounds* by the Select men of any Town, that shall neglect their Duty in any of the particulars aforesaid: Two thirds thereof unto the use of the Poor of such Town; and the other third unto the Select men of any of the next adjacent Towns, that shall Inform and Sue for the same, in the Inferiour Court of Pleas within the same County, to be Recovered by Action or Information.

And be it further Enacted by the Authority aforesaid, That each Proprietor of Lands lying Unfenced, or in any common Field, shall once in two years, on six days warning before given him, by the next Proprietor or Proprietors adjoining, run the Lines, make and keep up the Bounds between them, by sufficient met Stones; on pain that every Party so neglecting or refusing, shall forfeit the Sum of *Ten Shillings*: one half to the party moving, and the other half to the use of the Poor of the Town, being Convented and Convicted of such Neglect or Refusal, before any Justice of the Peace within the same County, who is hereby impowred to hear and determine the same.

Proprietors of Lands unfenced or in common Fields to run the Lines once in two years.

And further it is Enacted by the Authority aforesaid, That the Proprietors of the undivided or common Lands within each Town and Precinct in this Province, where the same have been heretofore stated, each ones proportion being known, shall, and hereby are Impowred to order, improve or divide in such way and manner as shall be concluded and agreed upon by the major part of the Interested; the Voices to be collected and accounted according to the Interests. And the Proprietors of all undivided or common Lands not stated and proportioned as aforesaid; shall, and hereby are Impowred to manage, improve, divide or dispose of the same as hath been, or shall be concluded and agreed on by the major part of such Proprietors. That no Cottage or Dwelling-place in any Town, shall be admitted to the privilege of Commonage for Woods, Timber and Herbage, or any other the privileges which lie in common in any Town, or peculiar, other than such as were erected or privileged by the Grant of such Town or peculiar before the year *One Thousand Six Hundred Sixty & One*, or that have been since, or shall hereafter be Granted by the consent of any Town or Peculiar.

Some more Lands, how to be improved.

And whereas it has been a continued practice and custome in the severall Towns within this Province, annually to Choose Select men or Townsmen, for the ordering and managing of the prudential affairs of such Town, and other Town Officers for the Executing of other matters and things in the Laws appointed by them to be done and performed.

Be it further Ordained and Enacted by the Authority aforesaid, That the Freeholders and other Inhabitants of each Town Rateable at *Twenty Pounds Estate*, to one single Rate besides the Poll; shall some time in the Month of *March* annually meet and convene together upon notice given by the Constable or Constables of such Town, or such others as the Select men or Townsmen shall appoint, to give notice of such Meeting, and the time and place for the same: And by the major Vote of such Assembly, then and there shall Choose three, five, seven or nine persons, able and discreet, of good Conversation, Inhabiting within such Town, to be Select men or Townsmen and Overseers of the Poor, where other persons shall not be particularly Chosen to that Office (which any Town may do as they shall find it necessary and convenient) as also to nominate and choose a Town-Clerk, who shall be Sworn truly to enter and record all Town-Votes, Orders, Grants and Divisions of Land, made by such Town, and Orders made by the Select men; a Commissioner for Assessments, Constables, Surveyers of Highways,

Qualification of Voters in Town-Meetings.

Select men, Constables and other Town Officers to be annually Chosen in *March* to be under Oath.

Townships and Town-Officers.

See Additional Act page

Constables to Summon Town Officers to be Sworn under a penalty.

Persons exempted from Serving as Constables.

ways, Tything men, Fence viewers, Clerks of the Market, Sealers of Leather, and other ordinary Town Officers. And the Town Clerk, or two of the Select-men, shall forthwith make, and give out unto the Constable or Constables of such Town, a List of the Names of those that shall be then Chosen to the Office of Town-Clerk, Constables, Tything men, Clerks of the Market, Sealers of Leather, and other Officers, of whom an Oath is by Law required; which Constable or Constables within the space of six days at furthest, shall Summon each of them respectively to appear before the Quarter Sessions, if then sitting, or one of the next Justices of the Peace, to be Sworn to the faithful discharge of their respective Offices and Trust, on penalty of *Twenty Shillings* to the use of the poor of the Town, to be paid by each Constable neglecting of his Duty in that behalf, upon Conviction thereof before one Justice of the Peace; and upon non-payment, to be Levied by Distress; *Provided*, That no person in Commission for any Office, Civil or Military, Church Officer, or Member of the House of Representatives for the time being, nor any other who has served as Constable within the space of seven years before, shall be chosen to the Office of Constable.

Towns or Select men having Instructions, to make orders & by-laws.

Orders & by-laws in Towns, to be approved by the quarter Sessions.

Penalty to be levied by warrant from a Justice.

It is further Enacted by the Authority aforesaid, That the Freeholders and Inhabitants qualified as in this Act is mentioned in each respective Town, in any Town Meeting, orderly warned according to the Usage in such Town, or the major part so Assembled, or the Select-men having Instructions given them in writing by the Town for that purpose; be, and hereby are Impowred from time to time to make and agree upon such necessary Rules, Orders and By-Laws for the directing, managing and ordering the prudential Affairs of such Town, as they shall judge most conducing to the peace, welfare and good order thereof, and to annex Penalties for the observance of the same, not exceeding *Twenty Shillings* for one offence, provided that they be not repugnant to the general Laws of the Province: And such Orders and By-Laws being presented unto the Justices in Quarter-Sessions, and approved of by them, shall be established, and binding to all the Inhabitants of such Town, and the penalty for breach of any of them by any of the Inhabitants, to be Levied by Warrant of Distress from any Justice of the Peace before whom such Offender shall be Convicted, to the use of the Poor of such Town.

Select-men to make Assessments for County and Town charges.

Assessors or Town Clerk to make out a warrant for levying the same.

Distress to be made on delinquents.

And further it is Enacted by the Authority aforesaid, That the Select-men or Townsmen chosen as aforesaid, in each Town respectively, be, and hereby are Impowred to assess the Inhabitants and others Resident within such Town, and the Precincts thereof, and the Lands and Estates lying within the Bounds of such Town, in just and equal proportion as near as may be unto the County Charges, according as they shall receive order from the Court of Quarter-Sessions to be held for the same County; and to all Town Charges, each particular person according to his known Ability and Estate, such Sum and Sums as hath or shall be ordered, granted and agreed upon from time to time by the Inhabitants in any Town meeting regularly assembled; or the major part of those present at such Meeting, for the maintainance and support of the Ministry, Schools, the Poor, and for the defraying of other necessary Charges arising within the said Town, and thereof to make distinct and perfect Lists under their Hands, or the major part of them, setting down every persons name, and several proportion, and shall thereupon make out a Warrant to be signed by the said Assessors, or the Town-Clerk, by their Order (who are hereby respectively Impowred thereto) directed unto the Constable or Constables of the said Town, for the speedy Levying and Collecting of such Assessments, and to pay in the same unto the Select-men, or to such person as they shall appoint for Receiver, within the time thereby prefix. And to make

Townships and Town-Officers.

25

make Distress upon all such who shall neglect or refuse to make payment : And for want of Goods or Chattels whereon to make Distress, to seize the person and Commit him to the Common Goal of the County, there to remain until he pay the Sum upon him assessed as aforesaid ; unless the same or any part thereof, upon application made unto the Quarter Sessions, shall be abated. And if any person think himself Over-rated, and make it so appear unto the Assessors, he shall be eased : And if they refuse, such person aggrieved may make his application unto the Justices in Quarter Sessions, who are hereby Impowred to rectifie the same : And all Constables having any such Assessment committed unto them, shall settle and issue their Accompts thereof with the Select-men, or Receiver appointed by them, within three months after their time or year is expired, on pain of forfeiting the Sum of *Twenty Shillings per Month*, for each Months neglect afterward, to the use of the Poor of such Town, and to be Levied by Distress upon such Delinquent Constables Goods, by Warrant from one Justice of the Peace, being Convicted and Convicted of such neglect before him, who is hereby thereto Impowred.

Persons over-rated to be eased.

Constables to settle & issue their accompts within 3 months after the expiration of their year.

Provided nevertheless, that every Constable at the end of every three months shall pay in as aforesaid, so much as he shall have Collected within that time.

See Act Relating to Town Assessments page

And it is further Enacted by the Authority aforesaid, That the Select-men or Overseers of the Poor in each Town (where there are such Chosen, and specially Appointed for that Service) are hereby Impowred and Ordered to take effectual care that all Children, Youth, and other persons of able Body, living within the same Town or Precincts thereof (not having Estates otherwise to maintain themselves) do not live idly, or mispend their time in Loitering, but that they be brought up or employed in some honest Calling, which may be profitable unto themselves, and the Publick. And if any person or persons fit and able to work, shall refuse so to do, but loiter and mispend his or her time, wander from place to place, or otherwise misorder themselves ; and thereof be Convicted before one or more Justices of the Peace, such person or persons shall by such Justice or Justices be sent to the House of Correction, and at their entrance, be whipped on the naked back, by the Master of such House, or such other as he shall procure, not exceeding ten lashes ; and be there kept to hard Labour, until he or she be discharged by such Justice or Justices, or the Quarter Sessions of the Peace for the same County. And it shall, and may be lawful for the Overseers of the Poor, or Select men in each Town, where there are no other persons specially Chosen and Appointed to be Overseers of the Poor, and they are hereby Ordered with the assent of two Justices of the Peace, to bind any poor Children belonging to such Town, to be Apprentices, where they shall see convenient ; a Man-child, until he shall come to the Age of Twenty one Years, and a Woman-child, to the Age of Eighteen years, or time of Marriage ; which shall be as effectual to all intents and purposes, as if any such Child were of full Age, and by Indenture of Covenant had Bound him or her self.

Idle persons & loiterers to be employed. Upon refusal to labour, to be sent to the house of correction.

Poor children to be bound out Apprentices.

And it is further Enacted by the Authority aforesaid, That every person and persons, (except as in this Act is before excepted) being duly Chosen as aforesaid, to Serve in the Office of Constable, who shall refuse to take the Oath to that Office belonging; and to serve therein, if he be able in person to execute the same, shall pay the Sum of *Five Pounds*, to the use of the Poor of such Town. And if in the Towns of *Boston* or *Salem*, the Sum of *Ten Pounds*, and shall forthwith declare his acceptance or refusal, and the Town shall proceed to a new Choice, and if such person refuse to pay down his Fine, he shall be Convened before the next Sessions of the Peace, to be held for that County, in which such Town lieth, who upon Certificate under

Penalty for not serving in the Office of Constable.

Townships and Town-Officers.

the Hand of the Town-Clerk, or two or more of the Select-men, that such person was legally Chosen to the Office of Constable, and shewing no just cause to the Sessions for his excuse; the Justices shall Order a Warrant to be signed by the Clerk of the Peace, directed to any of the Constables then in being within such Town, to Levy the said Fine by Distress and Sale of such Offenders Goods, returning the Over-plus (if any be) said fine to be delivered unto the Overseers of the Poor, or Select-men, to the use of the Poor of such Town.

Persons Entertained in any Town by the space of 3 months, and not warned out, to be reputed Inhabitants.

Persons of ability to relieve their poor relations

And be it further Enacted by the Authority aforesaid, That if any person or persons come to sojourn or dwell in any Town within this Province, or Precinct thereof, and be there received and entertained by the space of three months, not having been warned by the Constable, or other person whom the Select-men shall appoint for that Service, to leave the place, and the names of such persons, with the time of their Abode there, and when such warning was given them, returned unto the Court of Quarter Sessions; every such person shall be reputed an Inhabitant of such Town, or Precincts of the same; and the proper Charge of the same, in case through Sickness, Lameness, or otherwise they come to stand in need of relief, to be born by such Town; unless the Relations of such poor impotent person, in the Line or Degree of Father or Grand-father, Mother or Grand-Mother, Children or Grand-Children, be of sufficient ability; then such Relations respectively shall relieve such poor person, in such manner as the Justices of the Peace in that County where such sufficient persons dwell, shall assesse; on pain that every one failing therein, shall forfeit *Twenty Shillings* for every months neglect, to be Levied by Distress and Sale of such Offenders Goods by Warrant from any two such Justices of the Peace (*Quorum Unus*) within their Limits; which shall be employed to the use and relief of such impotent poor person: *Provided* nevertheless this Act shall not be understood of any persons committed to Prison, or lawfully restrained in any Town, or of such as shall come, or be sent for Nursing or Education, or to any Physician or Chirurgion to be Healed or Cured; but the particular persons who receive and entertain any such, shall be the Towns Security in their behalf; and be obliged to relieve and support them in case of need; upon Complaint made to the Quarter Sessions, who shall accordingly Order the same.

Persons warned out of any Town to depart in 14 days or else to be sent by the Constable.

And it is further Enacted by the Authority aforesaid, That any person orderly warned as aforesaid to depart any Town whereof he is not an Inhabitant, and neglecting so to do by the space of fourteen days next after such warning given, may by Warrant from the next Justice of the Peace be sent and conveyed from Constable to Constable, unto the Town where he properly belongs, or had his last Residence, at his own Charge, if able to pay the same, or otherwise at the Charge of the Town so sending him.

Constables to warn Town-meetings.

Penalty for neglect.

And further it is Enacted by the Authority aforesaid, That when and so often as there shall be occasion of a Town-Meeting for any Business of Publick Concernment to the Town, there to be done. The Constable or Constables of such Town, by order from the Select-men, or major part of them, or of the Town Clerk by their Order, in each respective Town within this Province shall warn a Meeting of such Town, having order for the same in Writing; on pain that every Constable neglecting his Duty in that respect, and being thereof Convicted before one Justice of the Peace, shall forfeit the Sum of *Twenty Shillings*, to the Use of the Poor of such Town, and to

Weights and Measures.

27

to be Levied by Distress and Sale of such Offenders Goods, by Warrant from such Justice of the Peace, upon neglect or refusal of payment. And in case the Select men in any Town shall unreasonably deny to call a Meeting of the Inhabitants of such Town, upon any Publick Occasion thereof, the same being complained of, and made to appear to one of the next Justices of the Peace within the same County; such Justice by his Warrant directed to the Constable or Constables, may order a Meeting of the Inhabitants of such Town, therein signifying the occasion thereof.

Justice to give
Warrant for
Town-meeting
in case.

An Act-for due Regulation of Weights and Measures.

TO the end that Weights and Measures may be one and the same throughout this Their Majesties Province.

Be it Enacted and Ordained by the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That the Brass and Copper Weights and Measures formerly sent out of England, with certificate out of Their Majesties Exchequer, to be approved *Winebester* Measure according to the Standard in the Exchequer, be the publick allowed Standard throughout this Their Majesties Province, for the proving and sealing all Weights and Measures thereby. And the Constables of every Town throughout this Province, not already supplied, shall within three months next coming provide upon the Towns Charge One Bushel, one half Bushel, one Peck, one half Peck, one Ale Quart, one Wine pint and half pint, one Ell, one Yard, one set of Brass Weights, to Four Pounds, alter sixteen ounces to the Pound, with fit Scales, and steel Beams, tried and proved by the aforesaid Standard, and Sealed by the Treasurer, or his Deputy in his Presence, (which shall be kept and used only for Standards in the severall Towns) who is hereby Authorized to do the same, for which he shall receive from the Constables of each Town, *Two pence* for every Weight and Measure so tried and proved and Sealed. And the Constables of every Town shall commit those Weights and Measures unto the custody of the Select men of their Towns for the time being, who with the Constables are hereby enjoined to Choose one able man for Sealer of all Weights and Measures for their Town from time to time, and till another be Chose, who shall be presented unto the next Court of Sessions, and there Sworn to the faithful Discharge of his Duty: And shall have power to send forth his Warrants by the Constable to all the Inhabitants of such Town, to bring in all such Weights and Measures as they make use of, in the Month of *April*, from year to year, at such time and place as he shall appoint, and make return to the Sealer in writing of all persons so Summoned. That then and there all such Weights and Measures may be proved and sealed with the Town Seal (which is likewise to be provided by the Constables at each Towns Charge) who shall have for every Weight and Measure so Sealed, *One penny* from the Owner thereof at the first Sealing. And all such Weights and Measures as cannot be brought to their just Standard, he shall deface and destroy, and after the first Sealing shall have nothing, so long as they continue just with the Standard.

Standard of
Winebester
measure.

Constables to
provide
Standards.

Sealer of
Weights and
measures,
how to be
chosen.

to grant out
warrant, for
Sealing of
weights and
measures in
April yearly.

Fee

Penalty for
neglect.

Penalty for Constables, Select men or Sealers neglect.

Penalty for not bringing in weights when warned.

Sea-port Towns to be provided of great weights.

And it is further Enacted by the Authority aforesaid, That if any Constable, Select man or Sealer, do not duly Execute this Law so far as to each and every of them appertains, they and each of them shall forfeit to Their Majesties for every such neglect, by the space of one month the Sum of *Forty Shillings*, towards the Support of their Government here. And every person neglecting to bring in their Weights and Measures at the time and place appointed, being duly warned thereto, shall likewise forfeit *Three Shillings* and *Four-pence*; the one half whereof to be to their Majesties as aforesaid, the other half to the Sealer aforesaid. And the penalty herein mentioned, to be Levied by Distrels by Warrant from any Justice of the Peace.

And it is further Enacted by the Authority aforesaid, That in every Sea port Town within this Province, the Constable or Constables are to provide upon the Towns Charge, One Hundred Weight: one half Hundred, one quarter of an Hundred, and one fourteen pounds Weight made of Iron, to be tried, proved and sealed as aforesaid, and be kept as Standards in the said several Towns to be used as before for other Weights and Measures is directed.

An Act for the Regulating and Encouragement of Fishery.

UPON Consideration of great Damage and Scandal, that hath happened upon the account of Pickled Fish, although afterwards dried and hardly discoverable; to the great loss of many, and also an ill Reputation on this Province, and the Fishery of it.

How dry Fish shall be faved.

No Mackrel to be salted up before the first of July.

See Explanatory Act page.

Penalty for taking Mackrel in Nets or Seyns.

Be it therefore Enacted by the Governour, Council and Representatives, Convened in General Court or Assembly, and it is Enacted by the Authority of the same, That no person or persons whatsoever, after the Publication hereof, shall save or salt any sort of Fish (that is intended to be dried) in Cask or Fats, or any other way than what hath formerly and honestly been practised for the making of dry Fish, on penalty of forfeiting all such Fish so salted and pickled, whether it be green or dry: The one Moiety thereof to the use of the Poor of the Town, where the offence is committed, and the other Moiety to the person that shall sue for the same.

And it is further Enacted by the Authority aforesaid, That henceforth no Mackrel shall be Caught (except for spending whilst fresh) before the first of *July* annually: And no person or persons whatsoever after the publication hereof, shall at any time or place within this Province, take, kill, or hale ashore any Mackrel, with any sorts of Nets, or Sa'ns whatsoever, on penalty of forfeiting all such Mackrel so taken or haled ashore, and also all such Nets and Sa'ns which were so employed: The one half thereof to Their Majesties towards the support of this Their Government, and the other half to him or them that shall Inform and Sue for the same. And all Justices are hereby Impowred, and Required to Grant their Warrants for the seizing of the same; and the aforesaid forfeitures, or the receiving of the like value in current Money of this Province.

Allegiance to be Sworn.

29

An Act Requiring the taking the Oaths appointed to be taken instead of the Oaths of Allegiance, and Supremacy.

WHEREAS Their Royal Majesties in and by Their Charter for the Erecting and Incorporating of Their Province of the Massachusetts Bay, in New-England, Have Granted and Ordained, That the Governour, or Lieutenant or Deputy Governour of Their said Province, or Territory for the time being, or either of them, or any two or more of the Council or Assistants for the time being, as shall be thereunto appointed by the said Governour, shall and may at all times, and from time to time, have full Power and Authority to administer and give the Oaths appointed by an Act of Parliament made in the First Year of Their present Majesties Reign, (Entituled, An Act for the Abrogating of the Oaths of Allegiance and Supremacy, and appointing other Oaths) to be taken instead of the Oaths of Allegiance and Supremacy; to all and every person and persons which are now Inhabiting or Residing within the said Province or Territory; or which shall at any time or times hereafter go or pass thither.

Now to the intent that there be no failure herein, but that Their Majesties Subjects within this Their Province, may accordingly Recognize their Duty and Allegiance.

Be it Enacted and Ordained by His Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That the Oaths in said Act mentioned, and the eby appointed to be taken instead of the Oaths of Allegiance and Supremacy, and each of them be and shall be forthwith Administred and given unto all Male persons of the Age of Eighteen Years, or above, Inhabiting or Residing in any Town or Place within this Province (that have not already taken the same, and shall make it so to appear) by His Excellency the Governour, or the Lieutenant or Deputy Governour, or any two or more of the Council or Assistants, or such others as shall be thereunto appointed by the Governour; and the List of the Names of all persons so Sworn, to be returned into the Secretary's Office.

All male persons of 18 years & upwards to take the Oaths.

And be it further Enacted by the Authority aforesaid, That if any person or persons shall refuse to take the said Oaths, or either of them when tendered to him or them by any persons lawfully Authorized as is aforesaid; to administer or tender the same; the person or persons so tendering the said Oaths, or either of them, shall commit the said person & persons so refusing to the common Goal, or House of Correction; there to remain without Bail or Mainprize, for the space of three months; unless such Offender shall pay down to the said person or persons so Tendering the said Oaths, or either of them, such Sum of Money, not exceeding Forty Shillings; as the said person or persons so tendering the said Oaths, or either of them, shall require such Offender to pay for his said refusal; which Money shall be paid to the Select-men, or Overseers of the Poor of the Town, or place where such Offender did last Inhabit.

Penalty for refusing.

And unless every such Offender, shall also become bound with two sufficient Sureties, with condition to be of the good Behaviour; and also to appear at the next General Quarter Sessions of the Peace, to be held for the same County, where such Offender doth Inhabit or Reside; at which Court of Quarter Sessions, the said Oaths shall be again Tendered to every such Offender by the Justices of the said Court in open Sessions. And if the said

Forms of Oaths.

Penalty for
a 2^d refusal.

Offender, shall refuse to take the said Oaths, or either of them, when Tendered to him by the said Justices in open Sessions as is aforesaid; the said Justices Tendering the said Oaths, shall commit the said person and persons so refusing, to the common Goal, or House of Correction, there to remain for the space of six months, unless every such Offender shall pay down to the Justices so Tendering the said Oaths, such Sum of Money, not exceeding Ten Pounds, nor under Five Pounds, as the said Justices shall require such Offender to pay for his second refusal; the said Money to be disposed of in manner aforesaid; and unless every such Offender shall likewise become Bound with two sufficient Sureties, with condition to be of the good Behaviour, until he or they do take the said Oaths.

And whereas there are certain persons who scruple the taking of any Oath.

Be it Enacted by the Authority aforesaid, That every such person shall make and subscribe the Declaration of Fidelity following, viz:

Declaration
of Fidelity.

I A. B. Do sincerely Promise, and solemnly declare before God and the World; That I will be true and faithful to King WILLIAM, and Queen MARY: And I do solemnly profess and declare, that I from my Heart, Abhor, Detest, and Renounce as Impious and Heretical, that Damnable Doctrine and Position, That Princes Excommunicated or Deprived by the Pope, or any Authority of the See of Rome may be Deposed or Murdered by their Subjects, or any other whatsoever. And I do Declare, that no Foreign Prince, Person, Prelate, State or Potentate, hath, or ought to have any Power, Jurisdiction, Superiority, Prebeminence or Authority, Ecclesiastical or Spiritual, within the Realm of England, or any of Their Majesties Dominions.

An Act for the Establishing of Forms of Oaths.

Be it Declared and Enacted by the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That the several Forms of Oaths here Underwritten, Be and are hereby Established. To be Given and Administred unto the respective Officers for whom they are appointed. As followeth.

Counsellors
Oath.

YOU A. B. being Chosen and Admitted of Their Majesties Council within this Their Province, Do Swear by the Everliving God. That you will to the best of your Judgment at all times, freely give your Advice to the Governour, for the good Management of the Publick Affairs of this Government; and that you will not directly nor indirectly Reveal such matters as shall be Debated in Council, and Committed to your Secrecy. But will in all things be a true and faithful Counsellor when you are thereunto Required. So help you God.

Justice of
Peace Oath.

YOU A. B. Do Swear, That as Justice of the Peace in the County of S. according to the Commission given you. You shall Dispense Justice equally and impartially in all Cases. And do equal Right to the Poor and to the Rich, after your cunning, wit and power, and according to Law. And you shall not be of Council in any Quarrel that shall come before you: You shall not Let for Gift or other Cause. But well and truly you shall do your Office of Justice of the Peace in that behalf, taking only appointed Fees. And you shall not direct or cause to be directed any Warrant (by you to be made)

Foams of Oaths.

31

made) to the Parties; but you shall direct your Warrant to the Sheriff, his Under Sheriff or Deputy, Constable, Tything-men, or other Officers, proper for the Execution of the same in the County. And this you shall do without favour or respect to persons. *So help you God.*

YOU Swear, That you will well and truly Serve the King and Queens Majesties, in the Office of the Sheriff of the County of S. And do the King and Queens profit in all things that belongeth to you to do by way of your Office, as far forth as you can or may; you shall truly keep the King and Queens Rights, and all that belongs to the Crown; you shall not Repite the King and Queens Debts for any gift or favour, where you may Raise them without great grievance of the Debtors; you shall truly and uprightly treat the people of your Sheriffwick, and do right as well to Poor as to Rich, in all that belongeth to your Office; You shall do no wrong to any man, for any gift or other behest or promise of Goods, for favour nor hate; you shall disturb no mans Right; you shall truly acquit at the Treasury, all those of whom you shall any thing receive of Their Majesties Debts; you shall nothing take whereby Their Majesties may lose, or whereby the Right may be letted or disturbed, or Their Majesties delayed; you shall truly return, and truly Serve all their Majesties Writs, as far forth as shall be to your cunning; you shall take no Bayliff into your Service, but such as you will answer for, and of true and sufficient men in the County, and shall cause each of your Bayliffs to make such Oath as you make your self in that belongeth to their Occupation. And over this in eschewing and restraint of the Man slaughters, Robberies, and other manifold grievous offences that be done daily. All these things you shall truly observe and keep as *God help you.*

Sheriff or
Marshals
Oath, *Mutatis
mutandis.*

YOU as Foreman of this Inquest for the Body of this County of S. You shall diligently Enquire, and a true Presentment make of all such matters and things as shall be given you in Charge; The King and Queens Majesties Council, your Fellows and your own, you shall keep secret; you shall present no man for envy, hatred or malice; neither shall you leave any man unpresented for love, fear, favour or affection, or hope of reward; but you shall present things truly as they come to your knowledge, according to the best of your understanding. *So help you God.*

Grand Jurors
Oath.

THE same Oath which your Foreman hath taken on his part, you and every of you on your behalf shall well and truly observe and keep. *So help you God.*

YOU shall well and truly try, and true deliverance make between Our Sovereign Lord and Lady, the King and Queen, and the Prisoners at Oath the Bar, whom you shall have in Charge according to your Evidence. *So help you God.*

Petit Jurors

YOU Swear, That in all Causes betwixt party and party that shall be committed unto you: You will give a true Verdict therein according to Law, and the Evidence given you. *So help you God.*

Jurors Oath
in civil cases.

YOU Swear, That in the Office of Town Clerk within the Town of B. whereto you are Chosen: You will diligently and faithfully attend and discharge the Duty of your Place, and duly observe the directions of the Law in all things whereto your Office hath relation, and thereby committed to your care and trust. *So help you God.*

Town Clerks
Oath.

YOU

Regulating Fees.

Cath of Leather Sealer.
Clerk of the Market, Culler of Filh, Packer, Gager, Mutatis Mutandis.

YOU Swear, That you will from time to time diligently and faithfully Discharge and Execute the Office of within the Limits whereto you are Appointed for the Ensuing Year, and until another be Chosen in your place; and that in and by all the particulars mentioned in the Laws whereto your Office hath Relation; and that you will do therein Impartially according to Law, without Fear or Favour. So help you God.

Constables Oath.

WHEREAS you A. B. are Chosen Constable within the Town of C. for one year now following, and until other be Chosen and Sworn in your Place: You do Swear, That you will carefully intend the Preservation of the Peace, the discovery and preventing all attempts against the same: That you will duly Execute all Warrants which shall be sent unto you from lawful Authority; and faithfully attend all such Directions in the Laws, and Orders of Court, as are, or shall be committed to your care. That you will faithfully, and with what speed you can, Collect and Levy all such Fines, Distresses, Rates, Assessments and Sums of Mony, for which you shall have sufficient Warrants according to Law; rendering an account thereof, and paying in the same according to the direction in your Warrant. And with like faithfulness, speed and diligence, will Serve all Writs, Executions and Distresses in private Causes betwixt party and party, and make Returns thereof duly into the same Court, where they are Returnable. And in all these things you shall deal seriously and faithfully whilst you shall be in Office without any sinister respects of favour or displeasure. So help you God.

An Act for Regulating Fees.

BE it Enacted and Ordained by the Governour, Council and Representatives, Convened in General Court or Assembly, and it is hereby Enacted and Ordained by the Authority of the same, That the Establishment of the Fees belonging to the several Offices in this Province; be as followeth.

Justices Fees.

See
Act impow-
ring Justices to
decide differ-
ences not ex-
ceeding 40 s.
page

FOR every Attachment or Summons for Actions not exceeding Forty Shillings, Six pence.
Sub pena, each Witness, Two pence.
Entring the Action, Three Shillings.
Every Execution, Two Shillings.
Filing Papers, each Paper, Two pence.
Every Warrant for Criminals, One Shilling.
Bond for Appeal, One Shilling.
Copy of Evidences, the least Six pence.
Copy of a Judgment, Six pence.
Every Recognizance, Two Shillings.
Confessing Judgment, One Shilling.
Affidavit out of Court, One Shilling.
Each days Attendance at the Sessions, to be paid out of the Fines, Four Shillings.
Acknowledging of a Deed or Mortgage or any other Instrument, Two Shillings.

l.	s.	d.
00	00	06
00	00	02
00	03	00
00	02	00
00	00	02
00	01	00
00	01	00
00	00	06
00	00	06
00	02	00
00	01	00
00	01	00
00	04	00
00	02	00

Coroners Fees.

FOR taking every Inquisition, to be paid out of the Estate of the Deceased, Thirteen Shillings and Four pence.

00	13	04
----	----	----

lf

Regulating of Fees.

33

If no Estate then to be paid by the County
Treasurer, *Six Shillings and Eight pence* 00 06 08

Fees for Probate of Wills, granting Administrations, &c.

FOR granting Administration, Bond and Letter of
Administration, under the Seal of the Office,
if the Inventory amount to Thirty Pounds or
upwards, to the Judge *Four Shillings*, to the
Register, *Three Shillings Six pence*. 00 07 06

If the Inventory be under Thirty Pounds
Five Shillings. 00 05 00

Probate of a Will where the Inventory amounts to
Thirty Pounds or upwards; to the Judge *Three*
Shillings and Six pence, to the Register, *Two*
Shillings and Six pence. 00 06 00

If under Thirty Pounds, *Four Shillings*. 00 04 00

Recording a Will or Inventory of one page, and Filing
the same, *Two Shillings and Six pence*. 00 02 06

If more, each page of twenty eight lines, eight
words in a line, *One Shilling*. 00 01 00

For a Copy of a Will or Inventory, *Twelve pence*
a page, each page to contain as aforesaid. 00 01 00

Allowing Accomps, Setting and Dividing of
Intestate Estates, *Five Shillings*. 00 05 00

Every Citation, *One Shilling*. 00 01 00

Every Quietus, *Four Shillings*. 00 04 00

Warrant for Apprizement, *Two Shillings*. 00 02 00

Making out a Commission to receive and examine
the Claims of Creditors to Insolvent Estates
and Registering of the same, *Three Shillings*. 00 03 00

Registering of the Commissioners Report after
the rate of *One Shilling per page*, to
be accounted as aforesaid.

For Entering an Order upon the Administrator
to pay out the Estate in proportion unto
the several Creditors returned by the
Commissioners, *One Shilling and Six pence*. 00 01 06

Secretary's Fees.

FOR Engrossing the Acts or Laws of
the General Assembly, *Ten Shillings*
each, to be paid out of the Publick Revenue. 00 10 00

Every Commission for the Justices of each
County, and Commission of Oyer and
Terminer, *Ten Shillings*, to be paid out
of the Publick Revenue. 00 10 00

Every Commission for a Military Officer, *Three Shillings*,
to be paid out of the Publick Revenue. 00 03 00

Special Warrant or Mittimus by Order of the Governour
and Council, each *Two Shillings and six pence*. 00 02 06

Every Commission under the Great Seal for
Places of Profit, *Ten Shillings*. 00 10 00

Every Bond, *Two Shillings*. 00 02 00

Every Order of Council to the benefit of particular
persons, *Two Shillings and six pence*. 00 02 06

Every

Regulating Fees.

Every Petition to the Governour and Council or General Assembly according to the Import from <i>Two Shillings and Six-pence, to Ten Shillings.</i>	}	<i>l.</i>	<i>s.</i>	<i>d.</i>
A Pass or Sea Brief, <i>Three Shillings.</i>		00	03	00
A Bill of Health, <i>Three Shillings.</i>		00	03	00
Every Writ for Electing of Assembly-men directed to the Sheriff or Marshal, under the Province Seal, <i>Five Shillings, to be paid out of the Publick Revenue.</i>	}	00	05	00
For Transcribing the Acts or Laws passed by the General Assembly into a Book, <i>Twelve pence a page, each page to contain Twenty Eight Lines, eight words in a line, & so proportionably, to be paid out of the Publick Revenue.</i>				

In the Superiour Court.

The Justices Fees.

E NTRY of every Action for Tryal, <i>Twelve Shillings.</i>	00	12	00
out of which to the Clerk, <i>Two Shillings.</i>	00	02	00
Taking every special Bayl, <i>Two Shillings.</i>	00	02	00
Allowing of a Writ of Error, <i>Three Shillings.</i>	00	03	00
Allowing a Habeas Corpus, <i>Two Shillings.</i>	00	02	00
Confessing Judgment, <i>Two Shillings.</i>	00	02	00
Acknowledging satisfaction of a Judgment on Record, <i>One Shilling.</i>	00	01	00
In all Criminal Cases where a Fine is set, <i>Six Shillings.</i>	00	06	00
Taxing every Bill of Cost, <i>One Shilling.</i>	00	01	00

Clerks Fees.

E VERY Writ and the Seal, <i>One Shilling and Six-pence.</i>	00	01	06
Every Rule of Court, <i>Six-pence.</i>	00	00	06
Filing every Declaration, <i>One Shilling.</i>	00	01	00
To the Jury to be paid down by the Plaintiff, <i>Six Shillings Six-pence</i>	00	06	06
Entering Appearance, <i>Six-pence.</i>	00	00	06
Signing a Judgment by default, <i>One Shilling.</i>	00	01	00
Taking every Verdict and Recording it, <i>One Shilling.</i>	00	01	00
Copies of all Records, <i>Twelve-pence.</i>	00	01	00
a page, each page containing twenty eight lines, eight words in a line.	}		
Less than one page, <i>One Shilling.</i>		00	01
Every Action withdrawn or Non-Suit, <i>One Shilling.</i>	00	01	00
Every Petition Read, <i>One Shilling.</i>	00	01	00
Order thereon, <i>One Shilling.</i>	00	01	00
Filing the Records of each Action, <i>Two-pence a Paper.</i>	00	00	02
Every Execution, <i>Two Shillings.</i>	00	02	00

In Criminal Cases.

Drawing and Ingrossing every Indictment or Information, <i>Two Shillings.</i>	00	02	00
Every Appearance, <i>Six-pence.</i>	00	00	06
For the Discharge of any person upon Bail for the peace, good behaviour, contempt and the like and Warrant thereon, <i>One Shilling.</i>	}	00	01
For Awarding and making forth Process against the Defendant on Information, <i>One Shilling.</i>		00	01
Every Warrant for the peace or good behaviour, <i>One Shilling.</i>		00	01

Regulating Fees.

35

l. s. d.

In the Inferiour Court,

Justices Fees.

ENTRY of every Action, <i>Ten Shillings.</i>	} Of which the Clerk 1 quarter.	00	10	00
Of which the Clerk is to have <i>Two Shillings.</i>		00	02	00
Taking Special Bail, <i>Two Shillings.</i>		00	02	00
Confessing Judgment, <i>One Shilling.</i>		00	01	00
Acknowledging Satisfaction of Judgment on Record, <i>One Shilling.</i>		00	01	00
Taxing every Bill of Costs, <i>One Shilling.</i>		00	01	00
whereof <i>Six pence</i> to the Clerk.		00	00	06
To the Jury to be paid down by the Plaintiff, <i>Six Shillings, Six pence.</i>		00	06	06

Clerks Fees.

FOR every Writ and Seal, <i>One Shilling.</i>	00	01	00
Entring Appearance, <i>Six pence.</i>	00	00	06
Entring and Recording the Verdict, <i>One Shilling.</i>	00	01	00
Making up the Record, <i>One Shilling.</i>	00	01	00
Copys of all Records, <i>Twelve-pence.</i> each page as before.	00	01	00
Every Action withdrawn or Non-Suit, <i>One Shilling.</i>	00	01	00
Every Execution, <i>Two Shillings.</i>	00	02	00

Clerk of the Sessions or Peace, his Fees.

ENTRING Complaint or Indictment, <i>Two Shillings.</i>	00	02	00
Discharge of a Recognizance, <i>One Shilling.</i>	00	01	00
Making forth Process against Criminals, <i>One Shilling.</i>	00	01	00
Every Summons, <i>Three pence.</i>	00	00	03
Every Warrant for the Peace, or good Behaviour, <i>One Shilling.</i>	00	01	00
Every License for Houses of publick Entertainment or Retailing, <i>Four Shillings.</i> whereof two to the Clerk.	00	04	00
	00	03	00

Sheriff or Marshals Fees. Or Constables

FOR Serving every Summons for Tryal, <i>One Shilling.</i>	00	01	00	
Every Capias or Attachment, <i>Two Shillings</i> and it above one mile, <i>Three pence per Mile</i> besides; Bayl Bond <i>One Shilling.</i>	}	00	02	00
		00	01	00
Levying Execution, for the first Twenty Pound or under, <i>One Shilling per Pound</i> , above that, not exceeding Forty Pound, <i>Six pence per Pound.</i>	}			
Above Forty Pound, not exceeding One Hundred Pound, <i>Three pence per Pound</i> , for whatsoever it exceeds One Hundred Pound, <i>Two pence per Pound</i> , besides <i>Four pence per Mile</i> for Travel from Home.				
Every Tryal, <i>One Shilling.</i>		00	01	00
Every Precept for Choosing of Representatives, <i>Two Shillings,</i> to be paid out of the County Assessment.	}	00	02	00

Cryers Fees.

FOR calling of the Jury, <i>Six pence.</i>	00	00	06
Every Non Suit, <i>Twelve-pence.</i>	00	01	00
Every Verdict, <i>Twelve pence.</i>	00	01	00

E 2

Goalers

Representatives.

Goalers Fees.

FOR Turning of the Key upon every Prisoner Committed
Five Shillings, viz. Commitment 2 s. 6 d. Discharge 2 s. 6 d. 00 05 00
 For Diet for each Prisoner, *Two Shillings and six-pence per* 00 02 06
 week, and so proportionable, he finding the same.

Penalty for
 taking excess-
 five Fees.

And be it further Enacted by the Authority aforesaid, That what Officer soever shall ask, demand and take any greater or other Fees than are before-mentioned for the matters aforesaid, or any of them, and be thereof duly Convicted in any Court of Record within this Province, shall forfeit and pay the Sum of Ten Pounds currant Money, one Moiety whereof to be unto Our Sovereign Lord and Lady, the King and Queen, Their Heirs and Successors, for and towards the Support of the Government of this Their Province, and the contingent Charges thereof: And the other Moiety unto the Informer, or him that shall Sue for the same in any Court of Record; wherein no essoign, protection, or wager of Law shall be allowed. And shall further pay unto the party grieved, double the value of the excessive Fees so taken.

An Act for Ascertaining the number, and Regulating the House of Representatives.

WHEREAS Their Majesties have been Graciously pleased by Their Royal Charter, to grant power unto the Great and General Court or Assembly of Their Province of the Massachusetts Bay; from time to time to direct, appoint, and declare, what number of Representatives each County, Town or place shall Elect and Depute to serve for and represent them respectively, in the said Assembly.

Towns con-
 sisting of 40
 Freeholders
 or other In-
 habitants
 qualified to
 choose to send
 one Repre-
 sentative.

One hundred
 & twenty or
 upwards, may
 send two.

Boston four

Be it therefore Enacted and Ordained by His Excellency the Governour, Council and Representatives, now in General Court Assembled, and by the Authority of the same, That henceforth every Town within this Province, consisting of the number of forty Freeholders, and other Inhabitants qualified by Charter to Elect, shall and hereby are Injoynd to Choose and send one Freeholder as their Representative; and every Town consisting of the number of one hundred and twenty Freeholders and other Inhabitants, qualified as aforesaid, or upwards, may send two such Representatives, and each Town of the number of Thirty Freeholders, and other Inhabitants qualified as aforesaid, or upwards, under Forty, are at liberty to send one or not; but may choose and send one Representative, if they think fit, to serve for, and represent them respectively in every Session of the Great and General Court or Assembly from time to time. And all Towns under thirty Freeholders, may send one to represent them, or joyn with the next Town in the Choice of their Representatives, they paying a proportionable part of the Charge. And no Town, shall at any time send more than two Representatives, except Boston, who are hereby granted to choose and send four.

And be it further Enacted by the Authority aforesaid, That when and so often as His Excellency the Governour shall see cause to Convene and Hold a Great and General Court or Assembly, Writs shall Issue out from the Secretary's

Representatives.

37

Secretary's Office under the Seal of the Province, and signed by the Governor, thirty days at least, before the time appointed for such Assemblies meeting, directed unto the Sheriffs of the several Counties. And where there is no Sheriff in any County or place, there to be directed to the Marshal, commanding each of them respectively to send his Precepts to the Select men of the several & respective Towns within such County, to assemble and call together the Freeholders and other Inhabitants qualified as aforesaid, to choose and elect one or more Freeholders, as the number in each Town is more or less, as above, to serve for and represent them in such Great and General Court or Assembly: The major part of the Select men in each Town respectively, to be present at such Meeting, and to give directions for the regular and orderly carrying on of the same: Who are to return the said Precept with the names of such as shall be Chosen by the major part of the Electors present at such Meeting, under their Hands unto the respective Sheriffs or Marshals by them to be returned into the Secretary's Office, one day at the least, before the time prefixed for the said Court or Assemblies Sitting.

Writts for calling a general Assembly to issue 30 days before.

Select-men to regulate the meeting.

And it is further Enacted by the Authority aforesaid, That the Representatives Assembled in any Great and General Court, shall be the sole Judges of the Elections and Qualifications of their own Members; and may from time to time settle, order and purge their House, and make such necessary Orders for the due Regulation thereof, as they shall see occasion. And forty Representatives at any time so Assembled, shall be accounted a number sufficient to constitute a House, Pass Bills, and to transact and do any Business proper to be done in that House; and such Acts to be esteemed valid and of Effect.

House of Representatives judges of Elections &c. Forty Representatives constitute a house.

And be it further Enacted by the Authority aforesaid, That each Town respectively shall pay unto their several Representatives, during their Attendance on the Court, and for the necessary time expended in their Journeying to and from thence; *Three Shillings in Money Per Diem*, within one Month next after the end of each Session commencing from His Excellencies Arrival.

Representatives Allowance.

And it is further Enacted by the Authority aforesaid, That every person Chosen to Serve for, and Represent any Town in the General Assembly, and accepting thereof, shall give his constant Attendance, during their Sessions, on pain of forfeiting the Sum of *Five Shillings Per Diem* for his neglect (without just excuse made and allowed of by the House of Representatives) to be paid unto the Clerk of the said House, and is to be, disposed of and imploied as the House shall direct; and in default of payment, to be Levied by Distress upon such Delinquents Goods, by Warrant from the said Clerk, by Order of the House, directed to the Sheriff of the County, his Under Sheriff or Deputy, or Constable of the Town where such Representative dwells; and no Representative shall depart or absent himself from the General Assembly, until the same be fully finished, adjourned or prorogued, without the Licence of the Speaker and Representatives Assembled, to be Entred upon Record in the Clerks Book, on pain to every one so departing or absenting himself in any other manner, to lose his Wages. And the Inhabitants of such Town for which he Serves, shall be clearly discharged of the said Wages against such person, and his Executors for ever.

Penalty for non attendance.

Not to depart without leave of the Speaker & the house.

And further it is Enacted by the Authority aforesaid, That no Member of the General Assembly, or his Servant during the time of their Sessions, or going to and from thence shall be Arrested, Sued, Imprisoned, or any ways molested or troubled, or compelled to make answer to any Suit, Bill, Plaint or Declaration, or otherwise: Cases of High-Treason and Felony excepted.

No Representative or his Servant to be arrested &c. during the Session.

To prevent danger by the French.

An Act for the preventing of Danger by the French Residing within this Province.

THere having been frequent Complaints made to this Court, That although several French Protestants who lately fled from Persecution; came Over-Sea into this Province, and were charitably Entertained and Succoured here; yet since that, many of a contrary Religion and Interest, have been brought hither; and others have Obtruded themselves; which (especially in this time of War, between the Two Crowns of England and France) proves a grievous Inconvenience; and the Publick Safety is endangered by suffering such a mixt Company among us.

For Remedy whereof,

No French
to reside or
be in any
Sea-port or
Frontier
Town with-
out License.

It is Enacted and Ordained by the Governour, Council and Representatives, Convened in General Assembly, and by the Authority of the same, That from and after the second day of January next Enluing; none of the French Nation be permitted to reside or be in any of the Sea-port or Frontier Towns within this Province; but such as shall be Licensed by the Governour and Council. Nor shall any of said Nation open Shop, or exercise any Manual Trade in any of the Towns of this Province; without the Approbation of the Select-men, first orderly obtained in Writing under their hands, on pain of Imprisonment.

And any two Justices of the Peace (*Quorum Unus*) within their respective Precincts, are hereby Impowred to Commit to Prison any person or persons legally Convicted of Offending against this Act; upon the complaint of the Select men in any Town, or any two of them; and to remain in Prison, until Released by Order of the Governour and Council.

Acts

An Explanatory Act.

39

ACTS and LAWS,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*. Begun and Held at *Boston* the Eighth of *June*, 1692. and Continued by several Adjournments unto the Eighth day of *February* following.

An Act for the Explaining and Altering of some Clauses, and Sentences; and the Repealing of some others, contained in several Acts made and passed at the Second Session of this Court in *October* last, 1692.

BE it Enacted by the Governour Council and Representatives in General Court Assembled, and it is Enacted and Declared by the Authority of the same, That whereas in the Act Entituled, *An Act*, For the Settling and Distribution of the Estates of Intestates, amongst other things, thereby Enacted and Provided, there is a Saving to the Party agrieved, at any Order, Sentence or Decree, made for the Settlement and Distribution of any Intestate Estate, their right of Appeal unto the Governour and Council.

It is now Declared and Enacted, That such Right of Appeal, shall to all intents and purposes, extend and be taken and construed to extend, as well to any other Order, Sentence, Decree or Denyal, that shall at any time be made and given by the Judge of Probate, referring to the approbation and allowance of any Will, grant of Administration or other matter; Any thing in said Act, to the contrary notwithstanding.

Appeals from the Judge of Probate enlarged.

And further it is Enacted and Declared, That the Judge of Probate in each County respectively, when and so often as there shall be occasion; Be, and hereby is Impowred, to allow of Guardians, that shall be Chosen by Minors of fourteen years of Age, and to appoint Guardians for such as shall be within that Age; taking sufficient Security of all such Guardians for the faithful discharge of their Trust, according to Law: And to Accompt either to the Judge or Minor, when such Minor shall arrive at full Age, or at such other time as the Judge upon complaint to him made shall see cause.

Guardians to be allowed by the Judge of Probate.

AND whereas in one other Act, Entituled, *An Act*, For Affirming of former Judgments, and providing for Executions. Amongst other things thereby Enacted, It is Provided, that Appeals then depending, having not been Heard, shall be Heard and Tried at the first Superiour Court.

It is hereby Explained and Declared, to be understood and intended, and shall be construed to intend, the first Superiour Court to sit within or for that County, where the Action was originally and first Tried.

And for further Explanation and an Addition to the Section or Paragraph of said last mentioned Act, wherein provision is made, That a Scire Facias do issue forth upon any Judgment passed in any County Court or Court of Commissioners.

It is hereby Declared, to extend, and shall be construed and taken to extend as well to any Judgment passed in any Court of Assistants, Superiour or Inferiour Court at any time whatsoever; where Execution has not been taken out or not levied for satisfying of the same, such Writ of Scire Facias to be granted out of the Clerks Office, of the Superiour or Inferiour Court respectively to be held within or for the same County, where such Judgment was given.

And

An Explanatory Act.

And whereas by the Precedent or Form for an Execution, the Officer is Com-
manded for want of Goods, Chattels or Lands of the Debtor, to be by him shown
or found within the Precinct, to take the Body of such Debtor and Commit
him to Prison.

Judgments
to be satisfy-
ed in Specie.

It is hereby Explained, Enacted and Declared by the Authority
aforesaid, That where Judgment is granted for Money, or any particular
Specie, the Creditor shall not be compelled to take any other Specie; but in
every such case, for want thereof, the Officer shall take the Body of the
Debtor, in Execution, and Imprison him; unless such Creditor shall be con-
tent to receive his satisfaction in such other Estate as may be tendred or
found. And these words, *To the Acceptance of the said A. B.* shall be supplied
and inserted in the Writ of Execution, to follow next the word *Precinct*.

Writs to run
through the
Province.

And be it further Enacted and Declared by the Authority aforesaid,
That as well Original as Judicial Writs Issuing out of the Clerks Office, of
the Inferiour Courts of Judicature respectively shall run into any County
within this Province, and be there Executed by the Officer or Officers of such
County to whom they are directed.

Prohibition
of Mackerel
being
caught be-
fore the first
of July Re-
pealed.

And be it further Enacted and Declared, That the Clause in the A^ct,
Entituled, An A^ct for the Regulating and Encouragement of Fishery, That hence-
forth no Mackeril shall be Caught (except for spending whilst fresh) before
the first of July annually, be, and hereby is fully repealed and made void:
Any thing therein to the contrary notwithstanding.

Repeal of
the para-
graph in
the A^ct for
Settlement
of Ministers.

And whereas by one other A^ct, Entituled, An A^ct for the Settlement and
Support of Ministers and School Masters amongst other things therein Enacted:
It is Ordained, That every Minister, being a person of good Conversation,
Able, Learned and Orthodox, that shall be Chosen by the major part of the
Inhabitants in any Town, at a Town Meeting duly warned for that purpose;
notice thereof being given to the Inhabitants fifteen days before the time for
such Meeting) shall be the Minister of such Town, and the whole Town
shall be obliged to pay towards his Settlement and Maintainance; each man
his several proportion thereof. Upon further consideration of the said Secti-
on or Paragraph in said A^ct, and the impracticableness of the method therein
proposed for the Choice of a Minister, in divers Towns, wherein there are
more Churches than one, and Inconveniencies attending the same not so well
before seen.

Ministers
how to be
Chosen.

It is Enacted and Declared, That the before recited Section or Para-
graph, and all and every the Clauses therein contained, shall from henceforth
be Repealed and Revoked, and are hereby Repealed and utterly made void
for ever: Any thing in the said A^ct to the contrary notwithstanding.

And it is further Declared and Ordained, That the Paragraphs and
Sections hereafter following, Be Enacted, and by the Authority aforesaid
are Enacted, in Addition to the remaining part of said A^ct relating to Mi-
nisters: That is to say, That each respective gathered Church in any Town or
Place within this Province, that at any time shall be in want of a Minister,
such Church shall have power according to the directions given in the Word
of God to choose their own Minister.

And the major part of such Inhabitants as do there usually attend on the
Publick Worship of God, and are by Law duly qualified for Voting in Town
Affairs, concurring with the Churches A^ct, the person thus Elected and Ap-
proved, accepting thereof, and settling with them shall be the Minister, to-
wards whose Settlement and Maintainance all the Inhabitants and rateable
Estates lying within such Town, or part of a Town, or place limited by
Law for upholding the Publick Worship of God, shall be obliged to pay in
proportion. Provided, That nothing herein contained is intended or shall be
construed to extend to Abridge the Inhabitants of Boston of their ac-
customed

Registering Births and Deaths.

41

customed way and practice as to the Choice and Maintainance of their Ministers.

Be it further Enacted, That in such Towns or Places where there is no Church Gathered, the Rateable Inhabitants of such Town or Place, at a Advice of Meeting duly warned for that purpose, (notice thereof being given fifteen Neighbour-days before the time of such Meeting) by the major Vote of such Assembly ing Ministers then and there met, with the advice of three Neighbouring Ordained Ministers to be had, shall Chooſe and Call an Orthodox, Learned and Pious Person, to Dispense the Word of God unto them; to the Settlement and Maintainance of which Minister, all Rateable Estates, and Inhabitants within such Town or place shall be assessed, and pay proportionably.

And it is further Enacted by the Authority aforesaid, That where any Town or Place shall be negligent of their Duty by Law required, respecting the Maintainance of the Ministry, the Court of Quarter Sessions of the Peace within the same County, upon Complaint to them made, are Impowred and Required effectually to provide for Remedy thereof, and by Warrant from said Court, to Convent before them the Select-men, or others specially appointed by the Inhabitants of such Town or place, to take care in that matter, (having accepted such Betruffment;) and upon Conviction of neglect therein, to impose a Fine upon the Delinquents not exceeding Forty Shillings each person for the first offence: And upon a second conviction of such neglect, to impose a Fine of Four Pounds upon each person, and the like Sum of Four Pounds for every after Conviction: Such fines to be Levied by Distress and Sale of the Offenders Goods returning the Over-plus (if any be) and to be disposed to the use of the Poor of the same Town or place, by the Select-men, or Overseers of the Poor.

Sessions of the Peace to provide Remedy in case of neglect of Maintenance of the Ministry.

An Act for the Registering of Births & Deaths.

FOR preventing of great uncertainty and inconvenience that may happen, for want of a particular Register of Births and Deaths.

Be it Enacted by the Governour, Council and Representatives, in General Court Assembled, and by the Authority of the same, That every Town Clerk within this Province, shall be, and is hereby Impowred and Required, to take an account of all persons, that shall be Born, or shall Dye, within each Town respectively, and the Precincts thereof; and fairly to Register in a Book, their Names and Surnames, as also the Names and Surnames of their Parents, with the time of their Birth and Death. And the Clerk shall demand and receive the Fee of Three pence, and no more, for each Birth or Death, by him so Registred; to be paid by the Parents, or others nextly related to, or concerned with the party Born or Dying. And if any shall refuse or neglect to give notice to the Town Clerk of the Birth or Death of any person that they are so related to, or concerned for; or to pay for Registering as above-said; by the space of Thirty Days next after such Birth or Death: every person so refusing or neglecting, and being (upon the complaint of any Town Clerk) thereof convicted before a Justice of Peace within the same County, shall forfeit and pay unto such Clerk, the Sum of Five Shillings; to be Levied by Distress and Sale of the Offenders Goods by Warrant from such Justice; if payment thereof be not made within four days next after Conviction as aforesaid. And every Town Clerk shall give forth from the Registry a fair Certificate under his hand of persons Born or Dying in the Town, to any who shall desire the same; and he shall receive Six pence and no more for every Certificate so given.

Town Clerk to Register Births and Deaths.

ACTS and LAWS,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*. Begun and Held at *Boston* the Thirty first Day of *May*, 1693.

An Act for the Restraining the taking Excessive Usury.

FORASMUCH as the abatement of Interest hath always been found Beneficial to the Advancement of Trade, and Improvement of Lands by good Husbandry; and whereas the taking of Eight in the Hundred for the Interest of Money, tends to the great discouragement of Ingenuity and Industry in the Husbandry, Trade, and Commerce of this Province.

Be it for the Reasons aforesaid, Enacted by the Governour, Council and Representatives Convened in General Assembly, and it is Enacted by the Authority of the same, That no person or persons whatsoever, from and after the first day of *August*, in the year of our Lord, One Thousand Six Hundred Ninety Three; upon any Contract to be made after that time, shall take directly or indirectly, for Loan of any Monies, Wares, Merchandize, or other Commodities whatsoever, above the value of Six Pounds for the forbearance of One Hundred Pounds for a year; and so after that rate for a greater or lesser Sum, or for a longer or shorter time; and that all Bonds, Contracts, Mortgages and Assurances whatsoever, made after the time aforesaid, for the payment of any principal or Money lent or covenanted to be lent, upon or for Usury, whereupon or whereby there shall be Reserved, or taken above the rate of Six Pounds in the Hundred as aforesaid, shall be utterly void; and that all and every person and persons whatsoever, which shall after the time aforesaid upon any Contract, take, accept and receive by way or means of any corrupt Bargain, Loan, Exchange, or by Coven, or deceitful conveyance, or by any other way or means whatsoever, for the forbearing or giving day of payment for one whole year, of, and for their Money or other thing or things above the Sum of Six Pounds for the forbearing of One Hundred Pounds for a year; and so after that rate for a greater or lesser Sum, or for a longer or shorter time; shall forfeit and lose for every such Offence the full value of the Goods and Monies, or other things so lent exchanged, bargained, sold, or agreed for; one Moiety thereof to Their Majesties, towards the Support of the Government of this Province, and the contingent Charges thereof, the other Moiety to the Informer that shall sue for the same; any Custom, Usage or Law to the contrary notwithstanding.

Provided, nothing in this Act shall extend to the letting of Cattle, or other Usages of like nature, in practice amongst Farmers, or Maritime Contracts among Merchants, as Bottommery, or course of Exchange as hath been heretofore accustomed.

Six pound
Per Cent. Interest per
Annum for
loan of Money.

Penalty for
Contracting
for more

A Saving.

An Act for Confirmation of Titles within
the Islands of *Capawock, alias Martha's Vine-*
yard, and Nantuckett.

WHEREAS Their Most Gracious Majesties, our Sovereign Lord and Lady, King William and Queen Mary, in and by Their Royal Charter, or Letters Patents, bearing date at Westminster, the seventh day of October, In the third year of Their said Majesties Reign; for the Uniting, Erecting & Incorporating of the Colony of the Massachusetts-Bay, and Colony of New-Plimouth, the Province of Main, the Territory called Accada, or Nova-Scotia, and all that Tract of Land lying between the said Territories of Nova-Scotia, and the said Province of Main, into one real Province, by the name of the Province of the Massachusetts-Bay in New-England: have therein particularly named, comprehended and included the Islands of Capawock and Nantuckett as part of the said Province of the Massachusetts Bay, and annexed the same thereto: And also all Islands and Islets, lying within Ten Leagues directly opposite to the main Land within the said Bounds.

And whereas Their said Majesties have also been graciously pleased in and by Their said Letters Patents, to grant and ordain that all and every such Lands, Tenements and Hereditaments and other Estates, which any person or persons, or Bodies Politick and Corporate, Towns, Villages, Colledges or Schools, do hold and enjoy or ought to have, hold and enjoy within the bounds of the said Charter, by or under any Grant or Estate duly made or granted, by any General Court formerly held, or by virtue of the Letters Patents herein before recited, or by any other lawful right or title whatsoever; shall be by such person or persons, Bodies Politick and Corporate, Towns, Villages, Colledges or Schools, their respective Heirs, Successors and Assigns for ever hereafter held and enjoyed according to the purport and intent of such respective Grant: Under and subject nevertheless to the Rents and Services thereby reserved or made payable, &c. as in and by the before recited Charter, or Letters Patents, reference thereto being had, doth and will more fully and at large appear.

But forasmuch as the said Island of Capawock, alias Martha's Vineyard, and the Island of Nantuckett, were for some time under the Rule and Government of the Province of New York, and the Properties and Titles of the Lands upon the said Islands respectively, being derived and founded upon several Grants and Patents made and granted by the successive Governours of the said Province of New York; and so legal there according to the constitution, usage and custom of the Government of said New York. And the Inhabitants and Proprietors of Lands within the said Island of Capawock, alias Martha's Vineyard and the Island of Nantuckett, for their better quiet and satisfaction, desiring this Courts confirmation of the same.

It is therefore Declared and Enacted by the Governour, Council and Representatives Convened in General Assembly, and by the Authority of the same, That all Lands, Tenements, Hereditaments and other Estates held and enjoyed by any person or persons, Towns or Villages within the said Islands of Capawock, alias Martha's Vineyard and Nantuckett, and each of them respectively, by or under any Grant or Estate duly made or granted by any former Government, or by the Successive Governours of New York, or any other lawful Right or Title whatsoever; shall be by such person or persons Towns or Villages, their respective Heirs, Successors and Assigns for ever hereafter held and enjoyed, according to the true purport and intent of such respective Grant, under and subject nevertheless to the

Killing of Wolves.

Rents and Services thereby reserved or made payable: And are hereby ratified and confirmed as fully and amply to all intents, constructions and purposes, as the Lands in any other parts or places within this Province, by virtue of Their Majesties Royal Charter.

An Act for Encouraging the Killing of Wolves.

Wolves to be paid for out of the Town Stock.

BE it Enacted by the Governour, Council and Representatives, Convened in General Assembly, and by the Authority of the same, That whosoever hath since the *Fourteenth* day of *May*, One Thousand Six Hundred Ninety & Two: or shall hereafter Kill any grown Wolf within this Province, and bring the head thereof unto the Constable of the Town in which such Wolf shall be Killed, or to the Constable of the Town next Adjacent unto the place of Killing such Wolf, without the bounds of any Township, shall have a Receipt of the Constable for the same, and the Constable shall cut off both the Ears from such Head; and the party producing the Constables Receipt unto the Select men of said Town, or some one of them, shall be allowed and paid out of the Towns Stock, the Sum of *Twenty Shillings* for every Head as aforesaid, of a grown Wolf by him Kill'd, and the Sum of *Five Shillings* for every Wolves Whelp.

And the better to furnish the Select men with a Stock sufficient to answer such Payments.

Select men to Assess their Town yearly for this occasion, to be reimburs'd out of the publick Treasury.

It is further Enacted by the Authority aforesaid, That the Select men of each Town respectively, shall be, and hereby are sufficiently Authorized and Impowred to assess the Inhabitants of their Town yearly, in due proportion as near as they can, such Sum and Sums as they shall judge necessary to serve that Occasion, together with other Charges of the Town, and to cause the same to be Collected in manner as is by Law directed for the gathering of Town Rates: And all such Sum and Sums of Money, so paid out of any Town Stock, for the Killing of Wolves, the same being made to appear, shall be allowed unto such Town by the General Treasurer of the Province out of the Publick Revenue.

Acts

Partition of Lands &c. Criminal Offences.

45

ACTS and LAWS,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*. Begun and Held at *Boston* the Thirty first day of *May*, 1693. and continued by Ajournment unto the Sixth day of *July* following.

An Act for the Partition of Lands &c. and the Recovery of Legacies at the common Law.

BE it Enacted by the Governour, Council and Representatives, Convened in General Court, and by the Authority of the same, That all persons having or holding, or that hereafter shall have or hold, any Lands, Tenements or Hereditaments, as Coparceners, joint-Tenants, or Tenants in Common, may be compelled by writ of Partition at the common Law to divide the same; where the parties cannot agree to make Partition thereof by themselves.

Provided this Act shall not be understood to repeal, or any ways alter any clause or clauses in the Act, for *Regulating of Town-ships*, referring to undivided or common Lands.

Partition of Lands between Coparceners &c. to be forced by the common Law.

And it is further Enacted by the Authority aforesaid, That where any certain Legacy is or shall be bequeathed and given by any person in his or her last Will and Testament; As also where any residuary or uncertain Legacy is, or shall by the Account of any Executor be reduced to a certainty; every such Legacy and Legacies as aforesaid, may be Sued for, and recovered at the common Law; any Law, custom or usage to the contrary notwithstanding.

Legacies to be recovered at the common Law.

An Additional Act for the punishing of Criminal Offences.

WHEREAS the breach of sundry Criminal Laws of this Province, is only Punishable by Fines, and many times the breakers of them have not Money to satisfy the same.

Be it therefore Enacted by the Governour Council and Representatives, Convened in General Assembly, and by the Authority of the same, That henceforward it shall be in the power of any Justice of the Peace, that shall have Cognizance thereof, to Punish breakers of the Peace, Prophaners of the Sabbath, and unlawful Gamesters, Drunkards, or prophane Swearers or Curlets, by setting in the Stocks, or putting into the Cage, not exceeding three Hours, or Imprisonment twenty four Hours, or by Whipping, not exceeding ten Stripes; as the case may deserve, and where the offender has not wherewithal to satisfy the Law in that case provided.

Criminal Offences to be punished by Setting in the Stocks &c. where the Offenders cannot otherwise satisfy the Law.

ACTS

ACTS and LAWS,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*. Begun and Held at *Boston* the Eighth Day of *November*, 1693.

An Act Relating to Sureties upon Mean Procefs in Civil Actions.

BE it Enacted by the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same It is Ordered and Enacted, That where Bail is given upon Mean Procefs in any Civil Action, not only for the appearance of the party to answer the Suit, but also to abide the Order or Judgment of the Court that shall be given thereon, every such Surety or Sureties shall be obliged to satisfie the Judgment in case of the Principals avoidance, and the Return of *Non est inventus* upon the Execution; unless the Surety at the time of Entering up Judgment do bring the Principal into Court and move to be discharged; upon which the Court shall Order the Keeper of the Prison to receive him into Custody, that so his Body may be taken in Execution. And the party for whom the Judgment was given may have a Writ of *Scire Facias* out of the same Court against such Surety or Sureties, and in case no just cause be shewn to the contrary, the Judgment shall be affirmed against the Surety or Sureties with the additional Costs of Suit and Execution be accordingly granted.

Always Provided, That such Writ of *Scire Facias* be taken out and served upon the Surety within Twelve Months after the first Tryal and not afterward, and every Surety of whom such recovery is made, may bring his Action for damages against the principal Debtor.

An Act for Passing of Sheriff's Accompts.

BE it Enacted by the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That every Clerk of the Peace in each County within this Province, and Clerk of Assize shall deliver unto the Sheriff of the County a perfect Estreat of all Fines, Issues, Amerciaments, Recognizances, Monies and Forfeitures imposed, set, lost or forfeited in any Sessions of the Peace, Court of Assize and General Goal Delivery, or Special Court of Oyer and Terminer, by any Person, due to Their Majesties within the space of Thirty dayes next after the ending of the said Courts respectively; and within said time shall deliver unto the Treasurer and Receiver General of said Province, a perfect *Schedule* of all such Estreats by him delivered to the Sheriff, on pain of forfeiting to Their Majesties for the Support of the Government, the Sum of *Five Pounds* for each neglect, upon Conviction thereof before the Justices of the same Court.

And the Justices of each of said Courts respectively are hereby Impowred to audit, examine and adjust the said Accompts of the Sheriff, and upon Payment of what shall be found remaining due thereupon, to grant the Sheriff a *Quietus est*.

And whensoever any Sheriff upon passing his Accompts shall have his
Quietus

Quietus est, he shall be thereby absolutely discharged of all Sums of Money by him levied and received, and pretended not to be accompted for within the said Accompt, whereupon he had his *Quietus*; unless such Sheriff shall be called in question for such Sum or Sums of Money so pretended to be levied, within two years after the time of such Accompt and *Quietus*.

An Act for Regulating of the Militia.

WHEREAS for the Honour and Service of Their Majesties, and for the Security of this Their Province against any Violence or Invasion whatever: It is necessary that due care be taken that the Inhabitants thereof be Armed, Trained, and in a suitable posture and readiness for the ends aforesaid; and that every Person may know his duty and be obliged to perform the same.

Be it therefore Enacted by His Excellency the Governour, Council and Representatives in General Court Assembled, and it is Ordained and Enacted by the Authority of the same.

1. THAT all Male Persons from Sixteen years of Age to Sixty, (other than such as are herein after excepted) shall bear Arms, and duely attend all Musters and Military Exercises of the respective Troops and Companies where they are listed or belong, allowing three Monthes time to every Son next after his coming to Sixteen years of Age; and every Servant so long after his time is out; to provide themselves with Arms and Ammunition &c.

Persons liable to Train.

2. AND the Clerk of each Troop and Company once a Quarter yearly, shall take an Exact List of all Persons living within the Precincts of such Troop or Company, and present the same to the Captain or Chief Officer, on pain of forfeiting Forty Shillings for each default, to be paid to the Captain or Chief Officer to the use of the Company. And in case of non payment, to be levied by distress and sale of the offenders goods, by virtue of a Warrant from the Captain or Chief Officer, who is hereby Impowred to grant the same.

Clerk to take a list four times a year

3. THAT every Person listed in any Troop or Company shall so continue and attend all duty in such Troop or Company, or otherwise suffer the penalty by Law provided, until orderly dismist or removed out of the Town or Precinct; and in case of removal into the Precinct of another Company in the same Town, to produce a Certificate under the hand of the Captain or Chief Officer of the Precinct whereto he is removed, that he is listed there.

Persons to attend duty where listed till orderly dismist.

4. IF any Person liable to be listed as aforesaid, do exempt himself by Shitting from house to house, or place to place, to avoid being so listed; he shall pay as a Fine for every such offence, to the use of the Company to which he belongs, Ten Shillings, being Convicted before any Justice of the Peace of the County.

Penalty on such as shall Shift to avoid listing.

5. THAT every listed Souldier and other Householder (except Troopers) shall be alwayes provided with a well fixt Firelock Musker, of Musket or Bastard Musker bore; the Barrel not less than three foot and a half long, or other good Fire Arms to the Satisfaction of the Commission Officers of the Company, a Snapfack, a Coller with Twelve Bandeleers or Cartouch-box,

Foot Souldiers how to be Armed.

box, one Pound of good Powder, twenty Bullets fit for his Gun, and Twelve Flints, a good Sword or Cutlash, a Worm and Priming-wire fit for his Gun ; on penalty of *Six Shillings* for want of such Arms as is hereby required, and *Two Shillings* for each other defect, and the like Sum for every four weeks he shall remain unprovided ; the Fine to be paid by Parents for their Sons under Age, and under their Command ; and by Masters or heads of Families, for their Servants, other than Servants upon Wages.

Troopers
how to be
furnished.

6. **THAT** every Trooper shall be always provided with a good serviceable Horse of Five Pounds value, and not less than fourteen hands high, (the same to be determined by the two chief Commission Officers) covered with a good Saddle, Bit, Bridle, Holsters, Pectoral and Crooper ; and furnished with a Carbine, the Barrel not less than two foot and half long, with a Belt and Swivel, a case of good Pistols ; with a Sword or Cutlash, a Flask or Cartouch box ; one pound of good Powder, three pounds of serviceable Bullets, twenty Flints, and a good pair of Boots and Spurs ; on penalty of *Twelve Shillings* for want of such Horse as is hereby ordered, and *Three Shillings* a piece for every other defect, and the like Sum for every six weeks he shall remain unprovided : and that each Trooper lift his Horse, and shall not dispose thereof without the consent of his chief Officer on the penalty of *Five Pounds* : And for non-appearance at the time and place appointed for Exercise, every lifted Trooper for each days neglect shall pay *Ten Shillings* Fine.

7. **THAT** there may be two Troops in a Regiment, each of which Troops shall not exceed Sixty men with Officers.

Regimental
Musters, &
Training of
particular
Companies.

8. **THAT** Regimental Musters shall be but once in three years, (except in *Boston*) And every Captain or Chief Officer of any Company or Troop in any Regiment, shall be obliged on penalty of *Five Pounds*, to draw forth his Company or Troop, or cause them to be drawn forth four days Annually, and no more, to Exercise them in Motions, the use of Arms, and Shooting at Marks, or other Military Exercises, which every person liable to Train, having been duly warned, and not appearing and attending the same, shall for each days neglect pay a Fine of *Five Shillings*.

Commission
Officers
power.

9. **THAT** the Commission Officers of any Company or Troop, or the major part of them, may order the correcting and punishing disorders and contempt on a Training Day, or on a Watch, the punishment not being greater than laying Neck and Heels, Riding the Wooden Horse, or *Ten Shillings* fine.

Military
Watches.

10. **THAT** there be Military Watches appointed and kept in every Town at such times, in such places, and in such numbers, and under such Regulations as the chief Military Officers of each Town shall appoint, or as they may receive Orders from the Chief Officer of the Regiment : And that all persons able of Body, or that are of Estate (and not exempted by Law) shall by themselves or some meet person in their stead, to the acceptance of the Commander of the Watch, attend the same, on penalty of *Five Shillings* for each defect ; there having been due warning given.

Penalty for
not attending
Military
Exercises.

11. **EVERY** Soldier or other person liable by Law, refusing or neglecting to attend Military Exercises, on Training days ; or Military Watches, that shall not pay, or have no Estate to be found whereon to levy the fine, it shall be in the power of the Captain or Chief Officers of such Company on the next Training day after such neglect (he not having satisfied the Clerk) to punish him for such offence, by laying Neck and Heels, or Riding the Wooden Horse, not exceeding one Hours time : And if such Delinquent shall

shall absent himself the second Training day, without giving sufficient reason to the Captain, or Chief Officer for the same; it shall be in the power of the Chief Officer of the Company to direct a Warrant to the Constable of the Town, requiring him to apprehend such Delinquent, and bring him into the Field, that he may be punished according as by this Law is provided: And all Constables are hereby Required to Execute such Warrants accordingly.

12. THAT the Persons hereafter named be Exempted from all Trainings, *viz.* The *Members of the Council, the Representatives, for the time being, the Secretary, Justices of the Peace, President, Fellows, Students, and Servants of Harvard Colledge* Exempted by Colledge-Charter, *Masters of Art, Ministers, Elders and Deacons of Churches, Sheriffs, allowed Physicians, or Chyrurgeons, and profest School-Masters, all such as have had Commissions, and Served as Field-Officers, or Captains, Lieutenants, or Ensigns, Coroners, Treasurers, Attourney General, Deputy-Sheriffs, Clerks of Courts, Constables, constant Ferry-men, and one Miller to each Grist-Mill: Officers employed in and about Their Majesties Revenues, all Masters of Vessels of Thirty Tons and upwards, usually employed beyond Sea, and constant Herdsmen, Lame persons or otherwise disabled in Body (producing Certificate thereof from two able Chyrurgeons) Indians and Negroes.* Persons Exempted from Training.

13. THAT the Persons hereafter named be and hereby are Exempted from Military Watches and Wardings, *viz.* The *Members of the Council, Secretary, Representatives, for the time being, President, Fellows, Students of Harvard Colledge, and the Gentlemen belonging to the Troop of the Governours Guard, Ministers and Elders of Churches, allowed Physicians and Chyrurgeons, Constables, constant Ferry-men, and one Miller to each Grist-Mill.* Persons Exempted from Military Watches &c.

14. THAT the Captain & Commission Officers of each Company or Troop shall and hereby are fully impowred to nominate and appoint meet persons to Serve as Serjeants and Corporals in the respective Companies or Troops, and displace them, and appoint others in their room, as they shall see meet. Commission Officers to appoint Serjeants and Corporals.

15. THAT twice every year or oftner, if required, every Captain or Chief Officer of each Company or Troop shall give order for a diligent enquiry into the state of his Company, and for taking an exact List of the Names of his Souldiers, and Inhabitants within the Limits of his Company, and of the defects of Arms or otherwise, and names of the defective persons, that they may be prosecuted as the Law hath provided, and such care may be taken as is proper to remedy the same. View of Arms.

16. THAT if any person who is by Law obliged to provide Arms & Ammunition, cannot purchase the same by such means as he hath, if he bring to the Clerk of the Company, Corn or other Merchantable Provision, or vendible Goods, so much as by Apprizement of the Clerk and two other persons mutually chosen, shall be judged of greater value by one fifth part than such Arms or Ammunition is of: he thereupon shall be excused from the penalties for want of Arms and Ammunition, until he can be provided, which said Clerk shall provide as soon as may be by sale of such goods, and render the overplus to the party, if any be: But the party shall notwithstanding give his personal attendance upon all occasions as other Souldiers, until he be supplied, and at such times shall perform any proper Service he may be put upon by the Captain or Chief Officer of the Company he belongs to; but if the person be judged unable to buy Arms, or to lay down the value proposed, if he be a single man, he shall be put out to Service by the two next Justices of Peace to earn wherewith to buy Arms and Ammunition; if such person have a Family and be judged unable, by the Captain and major part of the Select men to lay down such value for the end aforesaid, then he shall be provided for out of the Town Stock, or by Arms procured at the Towns

Towns charge, until such time as he be judged able to provide for himself, and such Arms to be under the care of the chief Military Officer & the Select men of the Town.

How Drums
Trumpets
&c. are to
be provided.

17. THAT Drums, Drummers, Trumpets, Trumpeters, Colours & Banners be by the Commission officers of each Troop or Company provided at the charge of the respective Companies and Troops where there are not already provided, and the fines will not reach to procure the same, and that such as have been employed as Drummers or Trumpeters, or are fit and capable thereof, being appointed unto such Service by the Chief Officer of any Company or Troop, shall attend the Service, on penalty of *Forty Shillings* fine, and every Drummer for a years Service shall have *Twenty Shillings* if he find his own Drum, & *Ten Shillings* if the Captain finds the Drum; and a Trumpeter *Forty Shillings* a year, if he find his own Trumpet; and *Twenty Shillings*, if the Captain finds it.

Penalty for
refusing to
Serve as
Clerk.

18 THAT such meet person as by the Commission Officers of any Company or Troop shall be appointed Clerk, and shall refuse to serve, shall pay *Forty Shillings* fine, and another be chosen in his room, and so until one do accept; which person shall be under Oath for the faithful discharge of his Office, to be Administred unto him by a Justice of Peace in the same County, in the words following.

Oath.

You do Swear truly to perform the Office of Clerk of the Military Company under the Command of A. B. Captain, to the utmost of your skill and power in all things appertaining to your Office according to Law: So help you God.

Allowance.

And for every distrainment made for any fine not exceeding *Forty Shillings*, he shall have one quarter part for his pains and trouble. And for such fines he may distrain *Ex Officio*; and in distraining shall observe such Rules as the Law hath provided in other cases; and upon ten days notice shall account with and pay to the Captain or Chief Officer what fines he hath received, his own part being deducted.

Meeting of
the Chief
Officers of
the Regiment

19. THE Chief Military Officer of each Regiment as often as he shall see cause, shall require the Captain or Chief Officer of each Company in his Regiment to meet at such time and place as he shall appoint, and then with them to confer and give in charge such Orders as shall by them, or major part of them be judged meet, for the better ordering and setting their several Companies, and for the better promoting of Military Discipline amongst them. And the Chief Officer is hereby impowred by his Warrant directed to any Clerk or Officer of his Regiment to summon or cause to be brought before them any Offender against the Laws Military, and according to Law to hear and determine all matters proper for their Cognizance, and to give sentence, & to grant Mittimus or Warrants for Distrainment to the Clerk of the Company where the Offence is committed, for executing which Warrant, if above *Forty Shillings*, he shall have *Ten Shillings* out of the same for his pains and trouble therein; and no more.

Their Power

Town-stock
of Ammuni-
tion, &c.

20. THAT there be a stock of Powder and Ammunition in each Town provided, and from time to time as there is need, be renewed by the Selectmen; which shall be a barrel of good Powder, two hundred weight of Bullets, and three hundred Flints for every sixty lifted Souldiers, & after that proportion for the lifted Souldiers of each Town, whether more or less; Also that the Selectmen procure such a number of Arms, and so much Ammunition as shall be made appear by the chief Commission Officers of each Company in the several Towns to be needful for the supply of such Poor as by Law they are to provide for: And such Town as cannot make it appear to the chief Commander of the Regiment that they are thus provided at or before the first of May next, shall pay *Five Pounds* fine, which shall be distrained by Warrant from said Officer directed unto the Constable upon the Select men of the Town or any of them, and disposed of for the use of said Town towards the supply of such Stock; and the like Sum for every three months they shall remain so unprovided.

Penalty for
being unpro-
vided.

21. AND the Select-men where there is not a sufficient Stock of Powder, Arms and Ammunition, and in such Towns where there is need of Watch-houses, Firing and Candles for their Watches; in such case the Select-men for so much as is wanting are to procure or satisfy what is required or needed as before, &c shall make provision for the same by a Rate equally and justly laid upon the Inhabitants and Estate in such Towns, and such Rate signed and committed by them to the Constables to collect, who shall, and hereby are required and authorized to collect the same; and for non-payment to distrain as for other Rates, and the Money or pay collected to be brought in to the chief Military Officers and Select-men of the Town, to be by them improved for the ends aforesaid. And the Select-men or so many of them as shall neglect their duty herein, shall pay *Twenty Shillings* fine, to be paid to the Captain for the use of the Company, being convict before two Justices of Peace, who are hereby impowred to convent the party, and to hear and determine the same, and if need be, to appoint other meet persons in such Towns under the like penalties to perform said Service.

Select-men to make a Rate for buying of Ammunition &c. in case.

Penalty for neglect.

22. THAT no Clerk *Ex Officio* make distraint for any fine until four days after the Offence committed; that so the party may have opportunity to make excuse, if any he have, why he should not pay the fine; and every Clerk that neglects or refuses to account or make payment, as by this Law is provided, he by a Warrant from the Chief Officer of the Company directed to the Constable, may be distrained on for so much as he hath or should have collected or distrained for.

Clerk *ex Of- ficio* not to make distraint with in four days.

Penalty for his neglect to account &c.

23. THAT all Officers yield Obedience to the Warrants or Commands of their Superiour Officers on penalty of *Five Pounds*; to be heard and determined at the next meeting of the Chief Officers and Captains of the Regiment; and the fine to be taken by distress and sale of the Offenders Goods, (returning the Over-plus if any be) by Warrant from the Chief Officer of the Regiment, directed to the Clerk of the Company to which such Offender belongs, and to be improved to the use and benefit of such Company as the Officers so met shall agree, their Expences being first defray'd out of the same.

Penalty for Officers disobeying their Superiour Officers.

24. THAT an Alarm at the Castle upon Castle-Island near *Boston*, being made upon such causes as are agreeable to Instructions to be given by the Governour to the Captain of the Castle, shall be by putting out two Flags, and firing of two Guns towards the Town; at which time there shall with all possible speed such numbers be sent down for their relief, as the Governour and Captain General, or such person as shall be Commander in Chief in his absence, shall think necessary. At any other place an Alarm may be made by firing three Guns one alter another, or by firing a Beacon, their Drums beating an Alarm, all persons being called upon to Arm: Upon which all the Trained Souldiers, and others capable to bear Arms that are then Resident in any Town, shall forthwith appear compleat with their Arms and Ammunition according to Law, at the usual place of Rendezvous, or where the Chief Officers shall appoint; there to attend such Commands as shall be given for Their Majesties Service, and that on the penalty of *Five Pounds* fine, or three months Imprisonment: The Members of the Council, Justices and Sheriffs to attend upon the Governour, if at or near *Boston*, and in other places, to appear and advise with the Chief Military Officers of the Town, and to be assisting in Their Majesties Service according to their Quality; & such Alarms shall at all times be carried on from Neighbourhood to Neighbourhood, & from Town to Town throughout the Province, & from such Town where the Alarm is made, there shall be forthwith dispatch'd one or more Horse men to signify the occasion thereof to the Justice of Peace, Chief Military Officer or Constable of the next Town or Towns, which all persons are to take notice of.

Alarm.

Penalty for not appearing upon an Alarm.

Relief be sent to Frontiers.

Repairing the Town-house.

Penalty for
a false Alarm

and attend as is before directed: And if the Alarm be made either from a Sea-port Town, or other Town that lyes a Frontier to, or in great danger of the Enemy; the Captain or Captains of the Adjacent Towns shall forthwith go with or send such relief as they shall judge meet for the offence of the Enemy, or defence of themselves and Neighbours, but so as to be observant to any Commands or Orders they may receive from their Superiour Officers: And if any person shall wilfully make a false Alarm, he shall be fined to Their Majesties *Twenty Pounds* for support of the Government, or suffer six months Imprisonment.

Penalty for
quartering
Souldiers &c.
upon Inhabi-
tants.

25. NO Officer Military or Civil, or other person shall Quarter or Billet any Souldier or Seaman upon any Inhabitant within this Province, without his consent (other than the Publick Licensed Houses) under the penalty of *One Hundred Pounds*; to be recovered by Action, Bill, Plaint or information, in any Court of Record; one half to Their Majesties, for the support of the Government; the other half part to the party grieved that shall inform and sue for the same. And every such Inhabitant may refuse to Quarter any Souldier or Seaman notwithstanding any order whatsoever.

See
Additional
Act page

26. THAT all persons Exempted by this Law from Trainings, shall notwithstanding be provided with Arms and Ammunition compleat upon the same penalty as those that are obliged to Train.

Fines & for-
feitures how
to be disposed
& recovered.

27. ALL Fines, Penalties and Forfeitures arising by Virtue of this Act or any breach thereof (not otherwise disposed of therein) shall be for the use of the Regiment, Company, or Troop respectively: *That is to say*, for procuring and repairing Drums, Trumpets, Colours, Banners, Halberts, paying of Drummers and Trumpeters, or other Charge of said Company; and the over plus (if any be) to be laid out in Arms and Ammunition for a Town Stock, and be recovered by Action, Bill, Plaint, or Information in any of Their Majesties Courts of Record.

An Act for putting and keeping in repair the Town-house in Boston.

WHEREAS the Town-house in Boston within the County of Suffolk has formerly been and is still continued to be made use of for the holding of Councils, Courts of Judicature, and other Publick Assemblies for the whole Province; and has been accustomed to be upheld and repaired in part at the charge of the late Colony of the Massachusetts, part at the charge of the said County, and part at the charge of the said Town.

Charge of
Repairing the
Town-house
in Boston pro-
portioned.

Be it Enacted by the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That the Charges of Repairing the said House be from time to time continued to be answered and paid in proportion following; *That is to say*, one half part thereof out of the Publick Revenue of the Province; one quarter part out of the Treasury of the said County; and the other quarter part out of the Treasury of the said Town. And the Select-men of Boston, from time to time as there shall be need, are to take care that the said House be sufficiently Repaired, and to lay the Accompt of the Charge before the Governour and Council; as also before the Justices in Quarter Sessions, that so orders may be respectively given as well for payment of the part belonging to the Province, as that belonging to the County, according to this Act.

High-ways.

33

An Act for High-ways.

FOR the better amending and keeping in repair and clear the High-ways, and common Roads, leading from Town to Town and place to place; and for laying out new High-ways, and turning old High-ways where it shall be needful.

Be it Enacted by the Governour Council and Representatives, in General Court Assembled, and by the Authority of the same, That there be Annually chosen two or more Free-holders in each Town respectively within this Province, to be Surveyers of the High-ways, who shall be Sworn before some Justice of the Peace in the County, diligently and faithfully to perform the said Office for the year ensuing; which Surveyers shall take care that all High ways, Private ways, Causeys and Bridges lying within the Precincts of such Town, be kept in repair, and amended from time to time, when and so often, as shall be needful, at the Charge of such Town (where it is not otherwise settled) that so they may be safe and convenient for Travellers, Teams, and Drovers: And the Surveyers are hereby Impowered to cut down, dig up or remove, as well all sorts of Trees, Bushes, Stones, Fences, Rayles, Gates, Inclosures, or other thing or things, as may any ways streighten, hurt, hinder or incommode the High-ways: As also to dig for Stone or Gravel, Clay, Marl, Sand or Earth in any Land not planted or inclosed, and to press any Cariage, Work-men or other things fit to be employed in the High-ways, for such reasonable satisfaction to the parties concerned as such Surveyers can agree for; and in case of disagreement, such as the two next Justices shall appoint.

Surveyers of High-ways to be annually chosen and Sworn.

Their Power

And the Surveyers shall appoint certain days for providing materials and working in the High-ways; having respect to the season of the year, and the Weather, and giving convenient publick notice; at which days all persons liable to work (That is to say, from sixteen years old and upward) by themselves or other sufficient persons in their stead, shall attend: And if any person make default of attending the said work, by himself or other sufficient person in his stead, or with his Cart and Team, as he shall be appointed, upon complaint and proof thereof before the next Justice of Peace (without reasonable excuse made and allowed by such Justice) he shall cause to be levied of every such Offenders Goods, the Sum or Penalty of Two Shillings Six pence for each days neglect of Labour, besides the Charge of making Distreis; and for default of their Cart and Team, Six Shillings Per Diem, with Charge of Distreis as aforesaid.

Surveyers to give publick notice for working on the High-ways.

Penalty for non attendance.

And further it is Enacted by the Authority aforesaid, That where a new High-way or common Road from Town to Town, or place to place shall be wanting, and where old ways with more conveniency may be turned or altered upon application made to the Justices in Quarter Sessions, within the same County, the said Court may appoint a Committee of two or three sufficient Freeholders of the next Towns, who shall have most occasion of said way, to inquire into the necessity and conveniency thereof, and to make their Report thereon; and being judged to be of common necessity or conveniency, the Justices of said Court shall order a Warrant to the Sheriff or his Deputy to Summon a Jury out of the next Towns, to meet at some convenient day and place therein mentioned, to view and lay out such High-ways or Roads, who shall have an Oath Administred unto them by a Justice of Peace, to lay out such way according to the best of their skill and judgment, with most conveniency to the Publick, and least prejudice or damage to any particular person; which having done, the Sheriff or

Quarter Sessions to give order for laying out new High-ways or altering old ones.

High-ways.

his Deputy is to make return thereof, at the next Court of Quarter Sessions of the County where the same way is, as well under his own as the hands of the Jurors, by whose Oath the same is laid out, to the end the same may be allowed and recorded, and after known for a publick High way.

Damage in
proprieties to
be made good

Provided that if any person be thereby damaged in his propriety or improved grounds, the Town shall make him reasonable satisfaction by the Estimation of those that laid out the same: And if such person so damaged find himself agrieved by any act or thing done by the Jury, either in laying of the said way, or estimate of his damages, he may apply unto the Court of Quarter Sessions for relief, before any allowance or determination be made by them; who are hereby Impowred to hear and determine the same; but if no sufficient cause appear for complaint, he shall pay all Charges arising thereby.

Select mens
power to lay
out private
ways.

Recompence
for damage.

And be it further Enacted, That the Select men of each Town respectively be, and are hereby Impowred, by themselves or others whom they shall appoint, to lay out or cause to be laid out, particular and private ways for such Town only, as shall be thought necessary; so as no damage be done to any particular person in his Land or Propriety without due recompence to be made by the Town, as the Select men and the party interested may agree; or as shall be ordered by the Justices in Quarter Sessions upon inquiry into the same by a Jury to be Summoned for that purpose.

Nuisance up-
on high-ways
to be remov-
ed.

And it is further Enacted, That if any person or persons shall erect or set up any Gates, Rayles or Fence upon or a cross any High-way or Country Road, or continue any such to the annoyance & incumbrance of the same (other than such as shall be allowed by the Court of Quarter Sessions within the County) it shall be deemed a common Nuisance, and it shall be lawful for any person or persons to pull down and remove the same: And if any such incumbrance be in any particular or private way, allowed and setled by any Town, upon complaint thereof made to the next Justice of the Peace, he shall appoint a Committee of two or more discreet and indifferent persons to view such incumbrance and cause the same to be removed: And if any person be agrieved at the removal of any such Gate, Bars or Fence, he shall be heard at the Quarter Sessions within the same County, and upon just cause shewn, shall be by them relieved.

See
Act in Ad-
dition, page

Damage hap-
ping through
defects in
Wayes or
Bridges, to
be made
good by the
County or
Town.

And be it further Enacted by the Authority aforesaid, That if through neglect or not keeping in sufficient repair any High way, Causey-way, or Bridge, any person happen to lose his life in passing any such High way, Causey way or Bridge, or lose a Limb, break a Bone, or receive any bruise or breach in any part of his Body, through any defect in or want of necessary repair of such High way, Causey-way or Bridge; the County or Town respectively to which of right it belongs to maintain and keep the same in repair, having been warned or notified of such defect and need of repairs and amendment thereof, either in writing under the hand of two witnesses, or by presentment thereof made at the Sessions of the Peace; shall pay unto the Parents, Husband, Wife, Children or next of Kin to any person so losing his or her life, the Sum of *One Hundred Pounds*; and for any other harm as aforesaid, double the damage sustained thereby; to be ordered and set upon them by the Justices of the same County in Quarter Sessions; who are hereby Impowred thereto; and to render like recompence for any carriage Cart, Horse or other Beast harmed or lost, proportionable to the damage suffered.

And if any person chosen a Surveyer shall refuse to accept and take his

Fences, Cattle, &c.

55

his Oath, he shall forfeit *Twenty Shillings*, and having accepted do neglect his duty, shall forfeit for every neglect, *Five Pounds*; the said forfeitures respectively to be to the use of the Town, and to be recovered by complaint before the next Justice of Peace, or at the Sessions of the Peace in the same County.

Penalty on Surveyors refusing to accept or neglecting their duty.

No Person to be charged above a due proportion to the High-ways either in Labour or Teams.

An Act for Regulating of Fences, Cattle, &c.

FOR the better preventing of damage in Cornfields, and other improved and common Lands, by Horses, Neat Cattle, Sheep or Swine, going at large.

Be it Enacted by the Governour, Council and Representatives, in General Court Assembled, and by the Authority of the same, That in every Town and Peculiar within this Province, there be Annually chosen by the Inhabitants thereof (at the time of their Meeting, to choose Select-men and other Town Officers) two or more meet persons, to be Viewers of Fences; who shall be Sworn before a Justice of Peace, to the faithful discharge of their Office, in the particulars committed to their care by this Act: As also two or more persons for Hawards or Field-drivers. And that all Fences of four foot high, being of five Rayls, or four that are equivalent, Boards, Stone-wall, Brooks, Rivers, Ponds or Cricks equivalent thereto, in the judgment of the Fence-viewers, shall be accounted sufficient Fences: And all Fences in common fields and other grounds under improvement that shall be judged insufficient by the Fence-viewers, and notice thereof given to the party that of right ought to maintain the same, he shall sufficiently repair and amend all defects therein within the space of six days next after such notice given him; and in case of his neglect, the Fence-viewers are hereby impowred and ordered forthwith to cause such defective Fence or Fences to be sufficiently made up and repaired; and the person or persons to whom it belongs to make good such Fence, shall pay double the cost and charge expended for doing of the same. And in case of refusal or neglect, to make payment as aforesaid, by the space of one month next after an accompt presented, and demand thereof made, such Fence viewers may recover the same by Action, Plaint or Information, to be brought before any Justice of the Peace within the same County, if the Sum exceed not *Forty Shillings*; but if it be above that Sum, then in the Inferiour Court of Common Pleas.

Fence-viewers to be chosen and sworn.

Hawards or field-drivers.

Fences of four foot high to be accounted sufficient.

Penalty for not repairing insufficient Fence.

How to be recovered.

And it is further Enacted by the Authority aforesaid, That no persons other than Proprietors and Freeholders in any Town or Peculiar, shall let any Horse or Horse kind run to feed upon any common Land belonging to such Town or Peculiar, and every such Proprietor and Freeholder may keep one Horse beast upon the Common and no more, except such Proprietors and Freeholders, every of whom have a rateable Estate within such Town or Peculiar, of the value of *Fifty Pounds*, they to have the priviledge of two and no more.

None but proprietors & freeholders to have any Horse run to feed on the common.

And the Owners of all Horse-kind going upon the Common are required to cause the same to be entred with the Town Clerk, who is to keep a Book for that purpose, and therein set down as well the natural as artificial marks, and for every such Horse or Horse-kind, shall pay a Fee of *Three-pence* to the Clerk for his Entry: Such entry to be made at or before the tenth day of April.

Horses going on the common to be Entred with the Town Clerk.

April next, and so annually, on pain that every person neglecting so to do, shall forfeit and pay the Sum of *Ten Shillings* for each default. And if any Freeholder or proprietor shall desire to put more Horses upon the Common than is herein before allowed, he shall first repair to the Town Clerk, and make Entry of the number and marks thereof as aforesaid, and pay the Fee as aforesaid for every such entry, as also the Sum of *Five Shillings per head, per Annum*, to the use of the Proprietors of such Commons, on pain of forfeiting the Sum of *Ten Shillings per head* for such neglect.

Persons to be annually chosen to see to the observance of this Act.

And every Town and Peculiar within this Province are required to choose Annually two meet persons to see to the due observance of this Act relating to Horses, and to prosecute the breakers thereof: And if any person so chosen shall refuse to serve, or neglect his duty in any of the particulars herein committed to his care, he shall forfeit and pay the Sum of *Twenty Shillings* to the use of such Town.

Town Clerk to account annually.

And the Town Clerk of each Town respectively shall once in the year give an account and pay in to the Select-men of the Town so much as he shall receive by virtue of this Act for any Horse kind going upon the Common.

Penalties and forfeitures how to be disposed.

All penalties and forfeitures arising for breach of this Act relating to Horses going upon the Common, shall be one Moiety thereof unto the use of the persons to be appointed to see to the observance of this Act, and the other Moiety to him or them that shall inform and sue for the same, before any Justice of the Peace within the County.

Swine to be yoked and ringed.

And be it further Enacted by the Authority aforesaid, That all Swine going at large on the Commons, shall be sufficiently Yoked from the first of April to the fifteenth of October yearly; and Ringed in the Nose all the year. And if any Swine be found unyoked or unringed, their Owners shall be liable to pay *Six pence per head*; and if found damage feasant being unyoked or unringed to pay *Twelve pence per head*, over and above double damages to the party injured. And the Haward or Field driver or any other person may take up and impound such Swine.

Fee for impounding

And that there be paid unto the Haward or Field-driver, *One Shilling per head* for all Neat Cattle or Horses, and *Three pence per head* for all Sheep and Swine by him impounded: And to the Pound-keeper *Two pence per head* for all Neat Cattle or Horses, and *One penny per head* for all Sheep or Swine, for taking in and letting out, to be paid by the Owners of such Creatures.

Penalty for Sheep going on the common without a keeper.

And that for every Sheep in every Town going on the Commons without being under the hands of a Shepherd, from the first of May to the last of October in every year; the owners or keeper of the said Sheep shall pay the Sum of *Three pence* for every Sheep at any time so found running on the Common, not under the hand of a Shepherd or Keeper, betwixt the first of May, and last of October yearly.

An Act for Enabling the Treasurer to call in the Arrears of Publick Rates, and discharging of Publick Debts.

WHEREAS by an Act made by this Court in the year One Thousand Six Hundred Ninety Two; in the first Sessions En- titled, An Act for the Enforcing, Collecting and Paying in the Arrears of Publick Assessments, &c. The Constables and Collectors were thereby Enabled to Collect said Assessments, and

Arrears of Publick Rates.

57

and ordered to Accompt with and make payments unto the respective Treasurers ; and for defect to be distrained as by said Act doth more fully appear: *Notwithstanding which many Constables and Collectors have neglected to Accompt with and pay to the respective Treasurers, as by said Act they were enjoined ; yet for such their neglect have not been proceeded with as said Law hath directed : By reason whereof great Sums remain uncollected, and many persons unpaid their just dues.*

Be it therefore Enacted by the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That all Constables or Collectors that have had any Tax or Publick Assessment committed to them to collect in any Town, Village or Precinct, within the late Colonies of the *Massachusetts* or *Plimouth*, since the first of October, *One Thousand Six Hundred Eighty nine*, until the Arrival of His Excellency the Governour ; do forthwith Accompt with and pay to the Treasurer of the Province so much of such Taxes or Assessments as is in their hands, or that they have not already paid ; or orderly discharged themselves of ; which if they shall neglect or refuse to do ; the Treasurer is hereby impowred and required to Issue out Warrants for so much as they have not paid or discharged themselves of as aforesaid, directed unto the Sheriff of the County where any such defective Constable or Collector dwells, requiring him to levy all such Arrears by distress and sale of such Constable or Collectors Estate, real or personal, returning the over-plus (if any be) and if no Estate can be found, or not sufficient to discharge the same ; then to commit him or them unto the Goal of the County, there to remain until he or they have paid and satisfied such Arrears with charges ; except any Constable or Collector as the Treasurer, by order of the Governour and Council shall be directed to forbear, either for the whole or part in order to his procuring an abatement) as this Act hath hereafter provided.

Constables or Collectors to accompt for & pay in the Arrears.

Upon neglect the Treasurer to grant Warrants for distress.

And the Treasurer is hereby Ordered out of the Arrears of the whole Assessments, whether on the late Colonies of the *Massachusetts* or *Plimouth* ; or that have been laid on the Province, to pay all such Debts due from the said Colonies respectively, or from the Province as have been allowed by the former Governments, or by the Governour and Council, or that have been or shall be allowed by such Committees as have or shall be appointed for such end.

Treasurer ordered to make payment of Debts.

And where any Constables or Collectors in any Town are Dead, and have not adjusted the Accompts of the Assessments committed unto them respectively ; the Treasurer is hereby impowred to bring his Suit against the Executor or Administrator of such deceased Constable or Collector for the same, or what shall appear to be due.

The Executor or Administrator of any deceased Constable, &c. liable in case.

And forasmuch as divers Constables have informed that they have been disabled from Collecting the Rates committed to them to Collect before his Excellency the Governours Arrival, or the greatest part of them, by reason of the breaking up some Towns in whole or in part, or by the death or removal of divers persons, or by the Select mens Rating some persons that are brought into extreme Poverty by reason of the War, and others that never were able to pay.

Be it therefore Ordered and Enacted by the Authority aforesaid, That all such Towns, Constables or Collectors that desire or expect any ease or abatement for or by reason of any of the above-named particulars, or have any other just cause to alledge for the same, do by themselves or by some meet person in their behalf appear at *Boston*, at or before the Twenty-fifth day of *March* next before *John Phillips* and *Peter Sergeant*, Esqrs. Captain *Nathaniel Byfield*, Major *Penn Townsend* and Mr. *Edward Bromfield*, or any four of them ; who are hereby appointed and impowred to be a Committee for the receiving and hearing of the Allegations, Pleas or Proofs as may be offered for any

Committee to receive Allegations or Pleas for abatement.

Bristol Fair.

such allowance or abatement to be made as aforesaid, and to report the same unto this Court at their next Session; that so they may give order therein as to them shall appear just and reasonable: And for so much as shall not be by said Court allowed and abated, the Treasurer shall forthwith Issue out his Warrants as aforesaid, to levy the same by distress and sale of the Estate of such Constables or Collectors as were before indulged and forborn.

Also it having been made to appear that several Warrants Issued out by the late Treasurer of the Province for making or collecting of the Tax since his Excellency the Governours Arrival have miscarried.

Treasurer
to issue out
new War-
rants where
the former
have miscar-
ried.

Be it therefore Enacted, That the Treasurer forthwith Issue out new Warrants to such Towns and Places for such Sum and Sums the other were sent out for, which all Select-men are forthwith to assess, and Constables or Collectors to Collect by such Rules and under such penalties as by the Law relating to said Tax were made and enjoyned.

And whereas the Treasurer hath been ordered to make payment of what remains due to several persons that lent their Bills of Credit to this Province in and about June or July, One Thousand Six Hundred Ninety two; many whereof have been or may be longer unpaid then the time they were promised payment in.

Allowances
to such as
lent their
Bills.

Be it therefore Enacted, That such as are not already paid (discounting what they owe to the Province) shall be allowed for what is due to them by the Treasurer, after the rate of Six Per Cent. per Annum, for the value lent from the Expiration of the time they lent the same for, until they be paid or accept of the Treasurers order for payment of the same.

Penalty on
Constables
or Collect-
ors that ex-
act or re-
ceive any
Fee to hasten
payment.

And be it further Enacted by the Authority aforesaid, That all Constables or Collectors shall duly pay and answer all Orders coming from the Treasurer out of the Publick Moneys in their hands, which they shall have Collected for any publick Tax or Assessment committed, or hereafter to be committed unto them to collect and that without delay. And if any Constable or Collector shall require, exact, receive or take any Fee, Reward, Allowance or Abatement directly or indirectly from any person or persons to hasten or forward his or their payment, and be thereof convicted upon complaint or information brought before the Sessions of the Peace within the same County; such Constable or Collector shall forfeit and pay the Sum of Five Pounds over and above the Sum so taken; one half thereof unto Their Majesties towards the support of the Government, and the other half to him or them that shall inform and prosecute for the same.

An Act for Bristol Fair.

WHEREAS the General Court of the late Colony of New Plymouth did in the year of our Lord, One Thousand Six Hundred and Eighty; Grant unto the Inhabitants of the Town of Bristol within said Colony, that they should have liberty of keeping two Fairs in said Town of Bristol annually for ever, one upon the third Wednesday and Thursday in May, and the other upon the third Wednesday and Thursday in November; And it being found by experience that two days is not sufficient for the Transacting the business of said Fair; and that so late in November is inconvenient both with respect to persons coming, it being many times very bad Weather, and the chief time for selling fat Cattle being sooner.

Seamen.

59

Be it therefore Enacted by the Governour, Council, and Representatives Condened in Great and General Court, and it is hereby Enacted by the Authority of the same, That from henceforth the said Fair shall be kept and held in *Bristol* aforesaid within this Province, upon the third *Wednesday*, *Thursday* and *Fryday* in *May*, and on the third *Wednesday*, *Thursday* and *Fryday* in *October* annually for ever, and at no other time; any Law, custom or usage to the contrary notwithstanding.

Times for
holding *Bri-*
sol Fair.

An Act for Regulation of Seamen.

WHEREAS great loss and damage is frequently Occasioned to Trade and Navigation by Seamen deserting their Employ or Voyage they are entred upon, or being taken off from the same by Arrest and restraint for Debt, or pretence thereof:

For Remedy whereof.

It is Declared and Enacted by the Governour Council and Representatives in General Court Assembled, and by the Authority of the same, That if any Inn-keeper, Victualler, Seller of Wine or strong Liquors, Shop keeper or any other person whatsoever, shall trust or give credit to any Mariner or Seaman belonging to any Ship or other Vessel, without the knowledge and allowance of the Master or Commander thereof; no Process or Attachment for any Debt so contracted without knowledge and allowance as aforesaid, shall be granted against or served upon such Mariner or Seaman, until he shall have performed the Voyage he is then entred upon, and be discharged of the same: And every Process granted contrary hereunto and serving thereof shall be deemed and adjudged utterly void in Law: And any Justice of the Peace within the same County before whom it shall be made appear, that any Mariner or Seaman belonging to any Ship or Vessel is committed or restrained upon Process granted for any Debt or pretention of Debt made whilst such Mariner or Seaman was engaged and actually entred and in pay on any Voyage, shall forthwith order his release.

No Mariner
or Seaman to
be arrested
for any Debt
made whilst
he belongs
to a Ship,
&c.

And be it further Enacted by the Authority aforesaid, That if the Master or Commander of any Ship or other Vessel, shall Ship any Seaman, knowing him to be first entertained and Shipt on Board another Ship or Vessel, Or after notice thereof given him, shall not forthwith dismiss him; every such Master or Commander so offending, being thereof convicted, shall forfeit and pay the Sum of *Five Pounds*, one Moiety thereof to the use of the Poor of the Town where the offence was committed, and the other Moiety to him or them that shall inform and sue for the same, by Action, Bill, Plaint or Information in any Court of Record; and such Seaman so Shipping himself, shall forfeit and pay the value of one Months Wages that he shall so agree for, to be recovered, employed and disposed of in manner as aforesaid.

Penalty on
Masters
Shipping
Seamen first
entertained
on board
another Ship
&c.

Seamans
Penalty.

And further it is Enacted, That if any Mariner or Seaman having Shipt himself on Board any Ship or other Vessel to proceed in any Voyage, and under pay (the same being made appear by his hand set to the Masters Book or other writing of such Agreement) shall neglect his attendance and duty on Board, and absent himself from his said Service, upon complaint thereof made

Seamen de-
serting their
Service to be
Imprisoned.

Representatives.

to any Justice of the Peace within the same County, such Justice is hereby impowred to convent such Mariner or Seaman before him; and upon conviction of his so absenting himself as aforesaid, to commit him to Prison, that so he may be secured and forth-coming to proceed on the Voyage he has so agreed to, and to be delivered by order of the Justice that committed him, or some other Justice in the same County.

An Act to prevent default of appearance of Representatives to serve in the General Assembly.

WHEREAS there has been a neglect in some Sheriffs in Observance of Their Majesties Writt to them directed, for the Convening and holding of a Great and General Court or Assembly, timely to issue forth their Precepts unto the several Towns within their Bailiwick or Precinct, for the choosing of Representatives to serve in the Great and General Court or Assembly, and have also not taken due care to have Returns of their said Precepts. And forasmuch as many Persons Elected for Representatives, and having Summons, are not careful to give their attendance accordingly in due time, whereby the Publick Affayres for Their Majesties Service are prejudiced.

For Remedy whereof.

Be it Enacted by the Governour, Council and Representatives, in General Court Assembled, and by the Authority of the same, It is Ordained and Enacted, That every Sheriff upon Receipt of Their Majesties Writt for the Convening and holding of a Great and General Court or Assembly, shall forthwith make out his Precepts under his Seal in form as by Law is directed, unto the Select men of the several Towns within his County, and cause the same to be safely conveyed and delivered unto one or more of such Select men, within the space of Seven dayes at furthest next after his Receipt of such Writt as aforesaid; And shall likewise take effectual care for having his Precepts returned to him again from the said Towns respectively, with what shall be done pursuant thereto, by the day therein prefixed, and cause the same to be brought in to the Secretaries Office as by Writt he is Commanded.

Sheriffs to make out their Precepts in 7 days after Receipt of Their Majesties Writt.

And the Select men of each Town upon Receipt of the Sheriffs Precept, shall cause the Freeholders and other Inhabitants of said Town duely qualified as in the said Precept is mentioned, to be Assembled and meet at such time and place, as the Select men or the major part of them shall appoint, to Elect and Depute one or more Representatives for such Town, as by Law they may, and shall cause the person or person so Elected and Deputed by the major part of the Electors present at such meeting, to be timely Notified and Summoned by one or more of the Constables of said Town, to attend Their Majesties Service in the Great and General Court or Assembly, upon the day, and at the time and place appointed for holding of the same: And the Select men or the major part of them, shall make Return of such Election under their hands upon the said Precept, or annexed thereto, in manner and form as by Law is prescribed; and cause the same to be delivered unto the Sheriff of the County, at or before the day therein prefixed for return of the same; on pain that every Sheriff neglecting his duty in any of the particulars before mentioned, shall forfeit and pay the Sum of Fifty Pounds.

Select men to cause the Town to be Assembled for choice of Representatives.

Penalty on Sheriff, for neglect of duty.

Penalty on Select men & Constables

And every Select man or Constable in any Town neglecting his duty in any of the particulars before mentioned, shall incur the pain and forfeiture of Five Pounds.

Representatives.

61

And every Sheriff shall be allowed for his trouble and charge in sending out his Precepts, *Forty Shillings*, to be paid out of the County Treasury.

Sheriffs allowance.

And the Select men to be paid by the Town for the charge of returning their Precept, for which shall be paid, *three Pence* a Mile.

Select-mens allowance.

And be it further Enacted by the Authority aforesaid, That every person Elected to Serve a Representative for any Town in any Great and General Court or Assembly, and being Summoned thereto, shall give his attendance at the said Court on the first day appointed for the Courts sitting (without reasonable and just excuse for his absence, being made and allowed of by the house of Representatives) on pain of forfeiting the Sum of *Forty Shillings*: Unless such person being present at the Election, shall declare unto the Assembly his non acceptance of the Service, or upon notice thereof given him, shall forthwith signify his non acceptance unto the Select men by writing under his hand: In which case the Select-men shall call the Town together again to Elect a new, that so they may enjoy their priviledge.

Penalty for Representatives non-attendance the first day of the Court.

That not any Town in this Province shall chuse any Representative, unless such be a Freeholder and Resident in that Town or Towns, such are chosen to Represent.

Representatives to be Freeholders & Resident.

And if any person not duly qualified according to Law, shall presume to Vote in the choice of Representatives, one or more for any Town; or shall put in more than one Vote for any one person in such choice, being thereof convicted, he shall forfeit and pay the Sum of *Five Pounds*; one Moiety thereof unto Their Majesties for and towards the support of the Government, and the other Moiety to him or them that shall inform and sue for the same.

Penalty on persons Voting, being not qualified

All persons shall put in their Votes unfolded to the Select-men or Constables appointed to receive the same.

And that where any person offering to give in his Votes for Representatives in any Town, shall be questioned by the Select men of the said Town as to his being capable by Charter to Vote; the said person or persons giving his or their Oath that they are, *Bona fide*, worth *Forty Pounds* Sterling, or an Estate of Freehold to the value of *Forty Shillings Per Annum*, before a Justice of the Peace, or in the absence of a Justice of the Peace, before the Town Clerk, who is hereby impowred to Administer the same, he or they shall be accounted capable of Voting and put in his or their Votes accordingly.

Voters questioned to make Oath.

All Fines and Forfeitures arising for breach of this Act or any branch thereof, and not otherwise therein before disposed of, shall be unto Their Majesties for and towards the support of the Government; and be recovered by Action, Bill, Plaint or Information in any of Their Majesties Courts of Record.

Fines and forfeitures how to be disposed.

Government of the Indians.

ACTS and LAWS

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*. Begun at *Boston*, the Eighth Day of *November*, 1693. And Continued by Adjournment unto the Fourteenth Day of *February* following.

An Act for the better Rule and Government of the Indians in their several Places and Plantations.

TO the intent that the Indians may be forwarded in Civility and Christianity, and that Drunkenness and other Vices be the more effectually Suppressed amongst them.

Commissioners to be appointed in several parts to have the more particular care and Government of the Indians

Be it Enacted and Ordained by the Governour, Council and Representatives in General Court Assembled, and it is Enacted by the Authority of the same, That His Excellency the Governour, by and with the advice and consent of the Council, may and is hereby impowred to appoint and commissionate one or more discreet persons within several parts of this Province, to have the inspection and more particular care and Government of the *Indians* in their respective Plantations; and to have, use and exercise the power of a Justice of the Peace over them in all matters Civil and Criminal, as well for the hearing and determining of Pleas betwixt party and party, and to award Execution thereon, as for the examining hearing and punishing of Criminal Offences according to the Acts and Laws of the Province, so far as the power of a Justice of Peace doth extend. As also to nominate and appoint Constables and other proper and necessary Officers amongst them.

Penalty for selling strong drink to Indians.

And be it further Enacted by the Authority aforesaid, That no person or persons whomsoever, shall directly or indirectly Sell, Truck, Barter, or give to any *Indian*, any Strong Beer, Ale, Cyder, Perry, Wine, Rhum, Brandy, or other Strong Liquors, by what name or names soever called or known, on pain of forfeiting the Sum of *Forty Shillings* for every Pint, and proportionably for any greater or lesser quantity so sold, truckt, bartered, given or delivered to any *Indian*, directly or indirectly as aforesaid, upon Conviction thereof before a Justice of the Peace, where the penalty does not exceed *Forty Shillings*: And if it exceed that Sum, at the Sessions of the Peace to be holden for the same County where the offence is committed: One Moiety of all such Forfeitures to be unto Their Majesties for and towards the support of the Government, and the other Moiety to him or them that shall inform and prosecute the same by Bill, Plaint or Information. And if the Offender be unable or shall not forthwith pay and satisfy the said penalty or forfeiture, then to be committed to the Goal of the County; there to remain until he pay and satisfy the same, or suffer two months Imprisonment.

Provided this Act shall not be intended or extend to restrain any Act of Charity for relieving any *Indian* (*Bona fide*) in any sudden exigent of Faintness or Sickness, not to exceed one or two Drums; or by prescription of some Physician in writing, or by the allowance of a Justice of Peace.

And

Relief of Distracted Persons.

63

And for the better discovery of such ill disposed persons, who through greediness of filthy Lucre, shall privately Sell or deliver strong Liquors or other strong Drink, to any Indian or Indians (of which it is difficult to obtain positive Evidence other than the Accusation of such Indian or Indians) And to the intent that Murders and other Outrages frequently occasioned thereby may be prevented,

It is Ordained and Enacted, That the Accusation and Affirmation of any Indian, with other concurring circumstances amounting to an high presumption, in the discretion of the Court or Justices, who have cognizance of the Case (the Accuser and Accused being brought face to face at the time of Tryal) shall be accounted and held to be a legal Conviction of the person so accused of giving, selling, or delivering Wine, Rhum, or any other strong Drink or Liquors, to such Indian ; Unless the party accused shall acquit him or her self thereof upon Oath ; which the Court or Justice respectively are hereby impowred to require, and Administer unto the person accused, in form following: *That is to say,*

Indian accusation with concurring circumstances, to amount to a conviction, unless, &c.

YOU A. B. do Swear, That neither your self, nor any other by your order, general or particular, assent, privy, knowledge or allowance, directly or indirectly, did give, sell or deliver any Wine, Cyder, Rhum, or other strong Liquors or Drink, by what name or names soever called or known, unto the Indian by whom and whereof you are now accused. So help you God.

Form of the Oath.

And further it is Enacted, That it shall and may be lawful to and for any person or persons, to seiz any Wine, strong Liquors or Cyder, which he or they may find in the custody of any Indian, not obtained by allowance as aforesaid, (other than Cyder made of Fruit of their own growth) and to deliver the same unto the Constable, or one or more of the Select men of the Town, where the same shall be seized, to and for the use of the poor of such Town : And to Apprehend such Indian, and to cause him or her to be conveyed before the next Justice of the Peace, to be Examined where, and of whom they had such strong Drink.

Strong drink found with Indians, to be Seized,

And every Indian convicted of Drunkenness shall forfeit and pay unto the use of the poor of the Town or place where such offence is committed, the Sum of Five Shillings, or else be openly Whipped by the Constable of such Town or place, or some other that he shall procure, not exceeding Ten Lashes, as the Justice of Peace before whom such Conviction is, shall determine.

Penalty for Indians convicted of drunkenness.

An Act for the Relief of Ideots and Distracted Persons.

BE it Enacted by the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That when and so often as it shall happen any person to be naturally wanting of understanding, so as to be incapable to provide for him or her self ; Or by the Providence of God, shall fall into Distraction, and become *Non compos mentis* ; and no Relations appear that will undertake the care of providing for them ; Or that stand in so near a degree as that by Law they may be compelled thereto : In

Select men or Overseers of the poor to make necessary provision for the relief of Ideots, and distracted persons.

Relief of Distracted Persons.

Court of
Quarter Ses-
sions to or-
der the Estate
of such per-
sons for im-
provement.

The Justices
of the Superi-
our Court to
License the
Sale of Hou-
sing or Land
of distracted
persons in
safe.

every such case the Select-men or Overseers of the Poor of the Town or Peculiar where such person was Born, or is by Law an Inhabitant, Be, and hereby are Impowred and Enjoyned to take effectual care, and make necessary provision for the relief, support, and safety of such Impotent or Distracted Person, at the charge of the Town or place whereto he or she of right belongs; if the party has not Estate of his or her own, the incomes whereof may be sufficient to defray the same: And the Justices of the Peace within the same County, at their General Sessions may order and dispose the Estate of such Impotent or Distracted Person to the best improvement and advantage towards his or her support; as also the person to any proper work or service he or she may be capable to be employed in, at the discretion of the Select-men or Overseers of the Poor. And where the Estate of any such person consists of Housing or Land, in every such case the Justices of the Superiour Court of Judicature, upon Application to them made, may, and hereby are Impowred to License and Authorize the Select-men or Overseers of the Town or place whereto such person belongs; or such others as the said Justices shall think fit, to make sale of such Housing or Land; the produce thereof upon sale to be secured, improved and employed to and for the use, relief and safety of such Impotent or Distracted Person (as the said Justices shall direct) as long as such person shall live, or until he or she be restored to be of sound mind. And the over-plus (if any be) to and for the use of the next and right Heirs of such party.

And the like power and authority is hereby granted unto the Justices of the Superiour Court with reference to any person or persons now under Distraction or *Non compos mentis*, as well for the satisfying of the Charges already past, as for what may be future, for the support, relief and safety of any such person.

Act

An Act for the Relief of Distracted Persons.

ACTS and LAWS

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*. Begun and Held at *Boston*, the Thirtieth Day of *May*, 1694.

An Act for Ascertaining the Fees of the Messenger attending the House of Representatives.

BE it Enacted and Ordained by His Excellency the Governour, Council and Representatives in General Court Assembled, and it is Enacted by the Authority of the same, That there shall be paid to the Messenger attending upon the House of Representatives for the time being, out of the Publick Revenue of this Their Majesties Province, the Sum of *Three Shillings Per Diem* for every day that the said Messenger shall attend upon, or be employed in the Service of the said House of Representatives: And further that the said Messenger shall and may demand, recover and receive, of all and every person Arrested, Imprisoned or taken into Custody by Warrant from the House of Representatives, *Three Shillings* for the Service of such Warrant of Arrest, with Travelling Fees after the rate of *Three pence Per Mile* out, and also *Three Shillings Per Diem* for safe keeping and providing for such person so apprehended and taken into Custody; and *Three Shillings* more upon the dismissal or release of the party, any Law, Custom or Usage to the contrary notwithstanding, except it be a Member of the House that is so sent for, and then the Fees to be paid, shall be less, as the House shall appoint.

Messengers
Fee 3 s. per
Diem.

3 s. for service
of a warrant
of Arrest.

Travelling
Fees 3 d. per
Mile out.

3 s. per. Diem
for each per-
son in Custo-
dy &c.

And it is hereby further Declared, That the Travelling Fees mentioned in the Act for Regulating Fees, allowed to Sheriffs, Marshals, or Constables for the Service of Writs, is to be alike understood of *Three pence per Mile* from home, and no more.

Sheriffs &c.
travelling
Fees, only
3 d. per. Mile
out.

An Act against Adultery and Polygamie.

WHEREAS the Violation of the Marriage Covenant is highly provoking to God, and destructive to Families.

Be it therefore Enacted by the Governour, Council and Representatives, in General Court Assembled, and by the Authority of the same, That if any man be found in Bed with another mans Wife, the Man and Woman so offending being thereof convicted, shall be severely Whipp'd, not exceeding *Thirty Stripes*, unless it appear upon Tryal that one party was surprized and did not consent; which shall abate the punishment as to such party.

I

And

Adultery & Polygamie.

Punishment
for Adulter-
ers.

And if any man shall commit Adultery, the Man and Woman that shall be Convicted of such Crime before Their Majesties Justices of Assize and General Goal Delivery, shall be set upon the Gallows by the space of an Hour, with a Rope about their Neck, and the other end cast over the Gallows: And in the way from thence to the Common Goal, shall be severely Whipt, not exceeding *Forty Stripes* each: Also every person and persons so Offending, shall for ever after wear a Capital A of two inches long, and proportionable bigness, cut out in Cloth of a contrary Colour to their Cloaths, and Sewed upon their upper Garments, on the out side of their Arm, or on their Back, in open view. And if any person or persons, having been Convicted and Sentenced for such Offence, shall at any time be found without their Letter so worn, during their abode in this Province; they shall by Warrant from a Justice of Peace, be forthwith apprehended and ordered to be publickly Whip'd, not exceeding *Fifteen Stripes*; and so from time to time *toties quoties*.

Polygamie
to be pun-
ished as
Felony.

And be it further Enacted by the Authority aforesaid, That if any person and persons within this Their Majesties Province, being Married, or which hereafter shall Marry, do at any time after the first of *July* in this present year, One Thousand Six Hundred Ninety Four, presume to Marry any person or persons, the former Husband or Wife being alive, or shall continue to live so Married; That then every such Offence shall be Felony, and the Person & Persons so offending shall suffer Death as in cases of Felony. And the party and parties so offending shall receive such and the like Proceeding, Tryal and Execution in such County, where such person or persons shall be apprehended, as if the Offence had been Committed in such County where such person or persons shall be taken or apprehended.

Saving for
persons
where Hus-
band or Wife
shall be ab-
sent seven
years, &c.

Provided always, That this Act or any thing therein contained shall not extend to any person or persons whose Husband or Wife shall be continually remaining beyond the Seas, by the space of seven years together; or whose Husband or Wife shall absent him or her self the one from the other by the space of seven years together in any part within their Majesties Dominions, or else-where, the one of them not knowing the other to be living within that time.

Saving for
persons di-
vorced or
Married
within the
Age of
Consent.

Provided also that this Act or any thing therein contained shall not extend to any person or persons, that are or shall be at the time of such Marriage, Divorced by any Sentence had, or hereafter to be had, as the Law of the Province in that case has provided: Or to any person or persons, where the former Marriage has been or hereafter shall be, by such Sentence had, declared to be void and of no effect. Not to any person or persons, for or by reason of any former Marriage had or made; or hereafter to be had or made within the Age of Consent. *That is to say*, the Man Fourteen Years of Age, the Woman Twelve.

An Act for Granting a Township in the
County of Bristol, to be called *Tiverton*.

WHEREAS there is a certain Tract or Tracts of Land called by the Indians, Pocasset and Puncateese, Scituate lying and being between the Bounds of Little Compton, and Freetown, within the County of Bristol, bordering upon the Sea, or Salt Water towards the West, extending along the Shore between the Towns aforesaid, about twelve miles Northerly and Southerly, and from the Salt Water towards the East into the Country about four miles till it meet with Dartmouth line; which Land belongs to sundry Persons the Proprietors thereof, and was put under the Constablewick of Little Compton aforesaid, who upon their Petition to this Court are reduced to their former State. Now forasmuch as there are already a Competent number of Inhabitants, and a good quantity of Land convenient for a Township.

Be it therefore Enacted by the Governour, Council and Representatives, in General Court Assembled, and by the Authority of the same it is Enacted, That henceforth the said Tract or Tracts of Land as now Bounded by the Limits and Bounds of *Little Compton*, *Freetown* and *Dartmouth* aforesaid, is and shall be a Township, and called by the name of *Tiverton*; and shall have and enjoy all such Immunities, Priviledges, and Powers as generally other Towns within this Province have and do enjoy: And *Joseph Palmer* the late Constable is hereby Required forthwith to warn the Inhabitants of the said Town to meet together to choose Select men, Constables and other Town Officers to carry on and manage their Prudential Affairs in an orderly way as the Law directs, until the next annual day of Election for Town Officers: and the said Inhabitants are enjoyned accordingly to assemble and attend the work.

And it is further Declared, That the Constable or Constables of said *Tiverton*, shall Collect all such Arrears of Publick Taxes as were assessed and proportioned upon the Inhabitants of said Town by the Select men of *Little Compton*, whilst they were annexed to that Town according to the Lists then made, which the said Select men are to furnish them with; and the Treasurer is Ordered to Issue out his Warrant to the Constable or Constables of said *Tiverton*, for Collecting the same accordingly.

A N A C T

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts Bay* in *New-England*. Begun at *Boston*, the Thirtieth Day of *May*, 1694. And Continued by Adjournment unto the Fifth Day of *September* following.

An Act for Granting a Township in the County of *Barnstable*, to be called *Harwich*.

WHEREAS there are a Competent number of Inhabitants already settled upon that Tract of Land commonly called and known by the name of *Satucket* within the County of *Barnstable*, containing a sufficient quantity of Land, and lying convenient for a Township: Therefore for Encouragement of the said Settlement.

It is Enacted by the Governour, Council and Representatives, in General Court Assembled, and by the Authority of the same, That all the said Lands lying betwixt the bounds of the Town of *Tar-mouth* upon the West, and the Town of *Eastham* on the East, running from the head of *Bound brook*, to the head of *Mamskeket*, about Ten Miles in Length, and about Seven Miles in Breadth, extending from Sea to Sea; Be and henceforth shall be a Township, the Town to be called *Harwich*, and shall have and enjoy all such Immunities, Privileges and Powers, as generally other Towns within this Province have and do by Law enjoy. *Provided*, it doth not Intrench upon former Grants referring to Townships.

And that for all Arrears of Publick Taxes, and for the late Tax and Addition thereto now granted by this Court, the Inhabitants of said Place do remain and continue under the same Regulations, Directions and Officers as before the making of this Act.

Towns, Villages, &c. Enabled to Sue.

69

ACTS and LAWS

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*. Begun at *Boston*, the Thirtieth Day of *May*, 1694. And Continued by Adjournments unto the Sixteenth Day of *October* following.

An Act to Enable Town, Villages, and Proprietors in common and undivided Lands, &c. to Sue and be Sued.

WHEREAS amongst other things in Their Majesties Royal Charter, for Incorporation of this Province; it is Contained and Granted in these words following: *That is to say, Provided nevertheless, And we do for Us, Our Heirs and Successors, Grant and Ordain that all and every such Lands, Tenements and Hereditaments and other Estates, which any Person or Persons, Bodies Politick or Corporate, Towns, Villages, Colledges or Schools, Do hold and enjoy, or ought to have, hold and enjoy within the bounds aforesaid, by or under any Grant or Estate, duly made or granted by any General Court, formerly held, or by virtue of the Letters Patents herein before Recited, or by any other lawful Right or Title whatsoever; shall be by such person or persons, Bodies Politick and Corporate, Towns, Villages, Colledges or Schools, their Respective Heirs, Successors and Assigns for ever hereafter, hold and enjoyed according to the Purport and Intent of such respective Grant, &c.*

And whereas by one Act of the General Court, Entituled, *An Act, For the Regulating of Townships, &c.* Amongst other things, *It is Enacted*, That the Proprietors of the undivided or common Lands within each Town or Precinct in this Province, where the same have been heretofore stated each ones Proportion being known, shall, and hereby are Impowred, to order, improve or divide in such way and manner, as shall be concluded and agreed upon by the major part of the Interested. And the Proprietors of all undivided or common Lands not stated and proportioned as aforesaid, shall, and hereby are Impowred to manage, improve, divide and dispose of the same, as hath been or shall be concluded and agreed on by the major part of such Proprietors.

Now for the better Enabling the said Persons, Towns, Villages, Trustees for Schools and Proprietors aforesaid, to maintain, recover and defend their Grants, Lands, Interests, and Estates.

Be it Enacted and Declared by the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That it shall and may be lawful for all and every the said Persons, Towns, Villages, Precincts, Trustees for Schools and Proprietors in common and undivided Lands, Grants, and other Estates or Interests whatsoever, to Sue, Commence and Prosecute any Suits or Actions in any Court proper to try the same, either by themselves or their Agents or Attorneys, to be appointed by such as have in them the major part of the Interest: And in like manner to defend all such Suits and Actions as shall be Commenced against them or any of them.

And further be it Enacted by the Authority aforesaid, That all and every Town, Village and Precinct, and Proprietors in common or undivided Lands, which shall have occasion to Sue or shall be Sued, may at a Meeting

Persons, Towns, Villages &c. to Sue or defend in any Court.

Towns, Villages &c. to chose Agents or Attorneys to prosecute for, or defend them.

How Sum-
mons shall
be given
to oblige
Towns, &c.
to answer.

ing of the Inhabitants of such Town, Village or Precinct, or Proprietors aforesaid, orderly Warned, by the major Vote of such as shall meet, choose Agents or Attorneys to prosecute for or defend them; such Choice being Certified by the Clerk of such Town, Village, Precinct or Proprietors, or by such other person as they shall appoint.

And when any Town, Village, Precinct or Proprietors aforesaid, shall be Sued, it shall be sufficient notice to oblige them to appear and answer, to leave a Writ or Summons with their Clerk or other Principal Inhabitant or Proprietor (briefly declaring the Case) fourteen days before the Sitting of the Court, where the Case is to be heard; as in other Actions is provided.

An Act for Regulating Ferrys.

TO the intent that all Ferrys within this Province be duly kept, and constantly attended for the ends whereunto they are appointed.

Ferry-men
to be Licen-
sed by the
Quarter
Sessions.

to give Bond.

Penalties for
non-atten-
dance, & not
keeping good
Boats.

Penalty for
delaying the
Post.

Assembly-
men to pass
Ferrage free.

See
Additional
Act, page

Be it Enacted by the Governour Council and Representatives in General Court Assembled, and by the Authority of the same, That henceforth no person or persons whatsoever, shall attempt to keep a Ferry (so as to demand pay) without special Licence first had and obtained from Their Majesties Justices in Quarter Sessions of that County where such Ferry is; who are hereby Impowred to grant Licences to such persons as they shall judge meet for that Service, in their respective Counties; and to state the Fare or Prizes of each Ferry, both for Man and Beast, according to the nature and breadth of such River, or Water they are to pass over; taking Bond of each Ferry man, for the faithful discharge of his place (except such Ferrys as are already stated and settled, either by the Court or Towns to whom they appertain) And all Ferry-men are hereby enjoined to keep a good Boat or Boats in good repair, suitable to the waters they are to Ferry over; and also to give ready and due attendance on Passengers upon all occasions, on penalty of *Five Shillings*, for every default of non-attendance; and for want of a good Boat kept in good repair, to pay *Five Pounds*; the one half to Their Majesties for and towards the support of the Government; the other half to him or them that shall inform and sue for the same, before a Justice of the Peace, or at the Quarter Sessions respectively, besides what damage may accrue to any Person through the Ferry mans default.

And further it is Enacted, That the General Post that is settled for Their Majesties, and the Countries Service, be readily dispatched, and set over by all Ferry men where they shall come, without any delay. And if any Ferry man shall be complained of, and duly convicted before any Justice of the Peace, for delaying any Post, and not forthwith Ferrying of him over, he shall Forfeit the Sum of *Twenty Shillings*, unto Their Majesties for and towards the Support of the Government.

And that Boats be constantly kept on either side of the water at *Charlstown* Ferry, for the more speedy Transportation of Passengers, the Ferry men on each side to have a separate Interest; and that the Ferry be not from henceforth Leased out otherwise. And all the Members of the General Assembly shall be Ferrage free at all Ferrys in their passing to and from the Assembly, and shall be Transported without any unnecessary delay, on pain of forfeiting *Twenty Shillings* as above said.

Attleborough.

71

An Act for Granting a Township within
the County of Bristol, to be called
Attleborough.

WHEREAS there is a certain Tract of Land commonly called by the name of North Purchase lying within the County of Bristol, containing in length about ten miles from Patucket River to the Bounds of Taunton, and extending about eight miles in breadth from the Line or Boundary betwixt the two late Colonies of Massachusetts and Plymouth, to the Bounds of the Town of Rehoboth; being a convenient Tract for a Township, and more than Thirty Families already Settled thereupon.

For the better Encouragement and Settlement of the said Plantation.

Be it Enacted by the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That henceforth the said Tract of Land as above described, and Bounded by the Townships of Taunton and Rehoboth (no ways to intrench upon either of their Rights) be and shall be a Township, and called by the name of *Attleborough*; and shall have and enjoy all such Immunities, Privileges and Powers, as generally other Towns within this Province have and do by Law enjoy. *Provided* that it be not in prejudice of any former Grant. *Provided* also that the Inhabitants of said Place do continue under the power and directions of the Select-men, Assessors and Constables of Rehoboth (whereto they were formerly annexed) as well referring unto any Assessments and Arrears thereof, as all other things proper to the duty of Select-men, Assessors and Constables respectively, until they are supplied with such Officers among themselves, according to the directions in the Law in that case made and provided.

ACTS

Reviving of Actions &c. at Salem Court.

A C T S and L A W S

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts Bay* in *New-England*. Begun at *Boston*, the Thirtieth Day of *May*, 1694. And Continued by several Adjournments unto the Twenty-seventh day of *February* following.

An Act for reviving of Actions & Proceſs lately depending in the Superiour Court of Judicature Court of Affize & general Goal delivery, within the County of *Essex*, and discontinued by the not holding of the ſaid Court at *Salem* upon the Second Tuesday in *November*, 1694.

WHEREAS by reason of Sickneſſes and other more weighty Occaſions of the Province intervening; the Superiour Court of Judicature, Court of Affize and General Goal Delivery could not be held and kept, at the time prefixed by Law for the Sitting of the ſame at *Salem* within the County of *Essex*, upon the Second Tuesday in *November*, in the Year of our Lord, One Thousand Six Hundred Ninety and Four: For which if due provision be not made, great delay of Juſtice, and conſequently great Expences to the Suitors in the ſaid Court will enſue Therefore for the Continuing and Reviving all manner of Actions or Pleas lately depending, and all manner of Proceſs that were Returnable or depending in the ſaid Court, and which were discontinued and put without day by the not holding the ſaid Court.

Be it Enacted by the Lieutenant Governour, Council and Representatives in General Court Aſſembled, and by the Authority of the ſame, That all Pleas, Writs, Actions, Suits, Complaints, Proceſſes, Precepts or other things whatſoever, that were Returnable, or had day or dayes in the ſaid Superiour Court of Judicature, or Affize and General Goal Delivery, to have been holden and kept as aforeſaid, ſhall ſtand continued and be revived, and are hereby continued and adjourned unto, and ſhall and may be pleaded, heard and proceeded upon at the next Superiour Court of Judicature, Court of Affize and General Goal Delivery within the ſaid County of *Essex*, to ſit at *Ipswich* on the Third Tuesday in *May* next enſuing.

And that all parties that had day by any Pleas, Writs, Bills, Actions, Suits, Complaints, Proceſſes, Precepts or other thing or things whatſoever at or in the ſaid Court to have been kept at *Salem* as aforeſaid, ſhall reſpectively appear at the ſaid next Court to be holden at *Ipswich*, under the penalty of forfeiting any Obligations or Recognizances conditioned for the appearance of the ſaid parties, at the aforeſaid Court in *Salem*, or under any other penalty that might have incurred upon the ſaid parties, for not appearing at the ſaid Court in *Salem*, if the ſame had been there holden and kept.

Provided nevertheleſs, and it is not to be underſtood by any thing herein contained, That the Jurors Chofen and Summoned to Serve at the ſaid Court at *Salem*, are obliged to appear and ſerve at the ſaid Court to ſit at *Ipswich*; but that new Jurors ſhall be choſen to ſerve at ſaid Court as of courſe.

Provided

Suppressing of Drunkenness, &c.

73

Provided also, that where it happens any person or persons being Principals that were under Bond, Obligation or Recognizance for appearance at the said Court to have been holden at *Salem*, are since that removed and gone beyond Sea or out of this Province, and shall not be returned before the Sitting of the next Court to be held at *Ipswich*: It shall be in the power of the Court Sitting at *Ipswich*, upon motion made on that behalf, and they are accordingly to allow a continuance of any such Bond, Obligation or Recognizance to such further time as shall be thought necessary, that no person concerned may be surprized or have advantage unreasonably taken against them.

And be it further Enacted by the Authority aforesaid, That when and so often as it shall happen the Superiour Court of Judicature; Court of Assize and General Goal Delivery, or the Inferiour Court of Pleas, in any of the respective Counties within this Province cannot be held and kept on the day by Law prefixed for holding of the same, by reason of Death or Sicknes befalling any of the Justices of such Court or any providential necessary and unavoidable lett or hindrance of their attendance: It shall and may be lawful to and for any two of the Justices of such Court respectively by Writ under their Hands and Seals directed unto the Sheriff of the County, therein inserting the occasion thereof, to adjourn the said Court unto a further day, as in the said Writ shall be expressed, at as little distance of time as possibly may be from the day whereon by Law the Court should have sat, that so Justice be not deferred or delayed: And the Sheriff upon receipt of said Writ, shall cause Publication to be made of the same at the usual place of the said Courts Sitting, and some other of the most Publick Places within the same County, and also to cause a signification of such Adjournment, and the time unto which it is made, to be posted up at or near the house or place where the said Court uses to sit, and other Publick Places as aforesaid; to the intent that unnecessary Travail, Charge and Attendance of all persons concerned may be prevented; and the Sheriff is to return such Writ with his doings thereon into the Clerks Office of such Court: And all Pleas, Writs, Actions, Suits, Plaints, Procees, Precepts, Recognizances and other thing and things whatsoever returnable or having day or dayes in said Court, shall stand, abide and continue unto the said Adjournment, and be held, deemed and adjudged to be as good, effectual and available in Law to all intents constructions and purposes, as if such Court had been held and kept on the day by Law for holding of the same, and no Adjournment thereof had been made.

An Act for the more Effectual Suppressing of Drunkenness, and putting in Execution the Laws against such as shall presume to Sell Strong Drink without Licence.

WHEREAS divers persons that obtain Licence for the Retailing of Wine and Strong Liquors out of Doors only, and not to be spent or drank in their Houses, do notwithstanding take upon them to give Entertainment to Persons to sit drinking and tippling there; and others who have no Licence at all, are yet so hardy as to run upon the Law, in adventuring to Sell without; Tending to the great increase of Drunkenness and other Debaucheries: Such Houses not falling under the inspection of Officers, as those that are Licensed.

Suppressing of Drunkennells, &c.

Retailers to
Sell no other
sorts of drink
than what
they are Li-
censed to, nor
to suffer per-
sons to drink
in their Hou-
ses, &c.

Be it therefore Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That from and after the Publication hereof, every person and persons now Licensed, or that shall hereafter obtain Licence to Retail Wine and Strong Liquors to be spent out of Doors, and not otherwise, who shall be Convicted of entertaining or suffering any person or persons to sit Drinking or Tipling in their Houses, Cellars, Backsides, or within any of the dependences of such Houses; Or of selling any other sort of Drink than what they have Licence for, shall incur and suffer the like penalties and forfeitures as may by Law be inflicted upon persons selling without Licence: to be recovered and employed in manner as by said Law is directed.

Officers to
inspect Pub-
lick Houses
& to present
such as Sell
without.

Penalty for
receiving a-
ny bribe, &c.

And all Officers as well Grand-Jurors, Constables, Tything-men, as the Officers employed in and about the Collecting of the Excise, are hereby Authorized and Required diligently to see that this Act be duly observed; and to present and inform of all breaches of the same, either at the Court of General Sessions of the Peace, or to some Justice of the Peace; who are hereby respectively impowred to hear and determin the said Offence according to Law: As also alike to present or inform of any that shall presume to Sell any sort of Strong drink without Licence. And it shall and may be lawful to and for any of the aforesaid Officers respectively *Ex Officio* to enter into and inspect the House of any person having once been convicted of selling without Licence, as they may by Law into Licensed Houses. And if any of the before mentioned Officers shall be convicted of taking or receiving any Bribe, Fee or Reward directly or indirectly to connive at, conceal, or not to present or inform against any person or persons being Licensed to Retail for spending out of Doors only, that shall suffer persons to Drink or Tipple in their Houses or any of the dependences thereof; or for any others who shall presume to sell without Licence; every Officer so offending, shall forfeit and pay three times the value of all and every such Sum and Sums by him received as a Bribe, Fee or Reward; one Moiety thereof unto Their Majesties for and towards the support of the Government, and the other Moiety to him or them that shall inform and sue for the same in any of Their Majesties Courts of Record: And if such Officer be one that be employed about the Excise, over and above the forfeiture aforesaid, he shall *ipso facto* be discharged of and from his said Office, and be rendred incapable to be employed in any Publick Service as an Officer, by the space of three years next following.

Licence to
be forfeited
upon a third
Conviction.

And be it further Enacted by the Authority aforesaid, That if any person Licensed as a Taverner, Innholder or Retailer of Wine or strong Liquors out of Doors, shall transgress this Act or any other Law of the Province made for the Regulation of such Houses, in any of the particulars therein mentioned, and shall be more than twice convicted of such breach of Law within the compass of one year: Every person so offending over and above the penalty in the Law for such transgression, shall forfeit his or her Licence, not to be renewed again by the space of three years next following.

Persons un-
able, or neg-
lecting to
pay their
Fine how
to be pu-
nished.

And if any person or persons duly convicted of the breach of Law in any of the particulars herein before mentioned, or of selling without Licence, shall be unable, or neglect to pay and satisfy the Fine imposed by Law for such transgression: It shall and may be lawful to and for the Court or Justice before whom the Conviction is to order such person or persons either to stand Committed to the Goal of the County by the space of twenty days without Bail or Mainprize, or to be set in the Cage, or Stocks, to remain there, not exceeding the space of three hours.

Sons or Servants going away without leave. 75

And it is further Enacted by the Authority aforesaid, That the Select-men in each Town shall cause to be Posted up in all Publick Houses within such Town, a List of the Names of all persons reputed Drunkards or common Tiplers, mispending their time and Estate in such Houses: And every keeper of such House after notice given him as aforesaid, that shall be Convicted before one or more Justices of the Peace of entertaining or suffering any of the persons named in such List, to Drink or Tipple in his or her House, or any of the dependences thereof, shall forfeit and pay the Sum of *Twenty Shillings*; one Moiety thereof to him or them who shall inform of the same, and the other Moiety to and for the use of the Poor of the Town where such Offence shall be committed.

Select-men to cause reputed Drunkards &c. to be posted up.
Penalty on the keepers of Publick Houses giving them Entertainment.

An Act for preventing of mens Sons, or Servants absenting themselves from their Parents or Masters Service without leave.

WHEREAS Complaint has been made by sundry Inhabitants of this Province, that they have sustained great damage by their Sons and Servants deserting their Service without consent of their Parents or Masters, being Encouraged to enter themselves on Board of Private Men of War, or Merchants Ships, and there Entertained.

For Redress whereof,

Be it Enacted by the Lieutenant Governour, Council and Representatives, in General Court Assembled, and by the Authority of the same, That no Commander of any Private Man of War, or Master of any Merchant Ship or Vessel coming into, tarrying or abiding in, or going forth of any Port, Harbour or Place within this Province, shall receive, harbour, entertain, conceal or secure on board such Ship or other Vessel, or suffer to be there harboured or detained, any mans Son being under Age, or Apprentice, or Covenant Servant, (knowing him to be such, or after notice thereof given) without licence and consent of his Parent or Master in writing under his hand first had and obtained ; on pain of forfeiting the Sum of *Five Pounds per Week*, and so proportionably for a longer or shorter time that any Son, Apprentice or Servant, shall be held, harboured, concealed or detained on board any such Ship or other Vessel as aforesaid, without licence and consent as aforesaid; the one Moiety thereof unto Their Majesties, to be employed towards the support of the Government of the Province, and the other Moiety unto the Parent or Master of such Son, Apprentice or Servant that shall inform and sue for the same in any of Their Majesties Courts of Record within this Province, by Bill, Plaint or Information, wherein no Essoign, Protection or Wager of Law shall be allowed.

Penalty on Commanders or Masters of Ships &c. for Entertaining mens Sons or Servants without leave.

And be it further Enacted by the Authority aforesaid, That every Apprentice or Covenant Servant who shall unlawfully absent himself from his Master, and enter himself on board any Ship or Vessel as aforesaid, with intent to leave his Masters Service; or continue there more than the space of twenty four hours, and be thereof convicted before Their Majesties Justices in General Sessions of the Peace within the same County, shall forfeit unto his Master such further Service from and after the Expiration of the Term which his said Master had in him at the time of his departure, as the said Court shall order, not exceeding one year.

Penalty on Servants deserting their Masters Service!

Grand Jurors.

An Act for Grand Jurors Serving at the Quarter Sessions of the Peace, and Punishing defaults of Jurors attendance.

TO the intent that due Inquiry and Presentment may be made unto the Court of Quarter Sessions of the Peace within the respective Counties, of all Misdemeanours, Offences and breaches of Law proper to the Cognizance of said Court happening within such County, for the Suppressing and Punishing of the same; And that Jurors may duly attend the Service for which they are chosen.

Be it Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That the Clerk of the Peace of each several County shall annually, fifteen days at least before the day for holding of the Court of Quarter Sessions of the Peace for such County, issue out Writs directed unto the Constables of the respective Towns within the same; Requiring them or one of them forthwith to warn a Meeting of the Inhabitants duly Qualified by Law, for the choosing of one or more Grand Jurors, according to the number such Town has been accustomed to send, or otherwise shall be appointed for them by the Justices of the said Court, and the person or persons so chosen, to warn to appear at the next Court, and the following Courts of Quarter Sessions successively to be holden for the same County within the space of one year, & there to attend the Service belonging to them; and to make return of the said Writ with his doings thereon accordingly unto the said Clerks Office, before the opening of said Court: And if any Constable shall fail of performing his duty by said Writ required, or seasonably to return the same, he shall forfeit and pay the Sum of *Forty Shillings*; and the persons chosen and returned as aforesaid appearing shall be Impaneled and Sworn a Grand Inquest for the body of such County, and shall continue in said Office for the space of one full year, and until others be chosen and Sworn in their stead, whose duty it shall be to inquire and duly present the breach of all such good and wholesome Laws as are or shall be Established within this Province, and all such misdemeanours as are proper to their inquiry, and the Jurisdiction of said Court.

And if any person chosen to said Office, and Summoned by the Constable and so returned by him, shall make default in appearance without reasonable excuse made and allowed of by the Court, the said Court shall and may set a Fine upon him, not exceeding the Sum of *Forty Shillings*. And a new Writ shall issue forth unto the Town to choose another in his room, and so likewise in case of the removal of any by Death or otherwise.

And be it further Enacted by the Authority aforesaid, That if any person or persons legally chosen and summoned to Serve upon the Petit Jury for Tryals in the Superiour Court of Judicature, Court of Assize and General Goal delivery, or in any of the Inferiour Courts of Common Pleas, or of General Sessions of the Peace; being so returned by the Constable under his hand, shall make default of appearance, and not attend the said Service, without reasonable excuse made and allowed of by such Court; every person and persons so offending shall be fined by said Court (who are hereby impowred thereto) not exceeding the Sum of *Twenty Shillings*.

See
Act to prevent default in the appearance of Jurors page

Fines & forfeitures to come to the County.

How to be levied.

All Fines and forfeitures accruing by virtue of this Act shall be paid into the Treasurer of the County, where the same do arise, and be employed towards the defraying of the Publick Charges of such County.

And in case any person or persons Sentenced to pay any of the said Fines or Forfeitures shall neglect or refuse so to do, the same shall be levied by distress and sale of the Offenders Goods or Chattels by Warrant from the Court that awarded the same, to be Signed by the Clerk of said Court; together with the incident charges arising for taking such distress according to the Fees by Law allowed for levying of Executions, and *Two Shillings* for the Warrant to be paid unto the Clerk that granted the same. And

Killing of Wolves.

77

And all Grand Jurors shall be allowed by the County Treasurer the Sum of *Two Shillings per Diem* each man, during their attendance on any Court; the time to be Certified unto the County Treasurer by the Clerks of the respective Courts. And no Grand Juror shall be compelled to Serve more than one year in three: Nor any Petit Juror more than at one Court within the compass of a year.

Grand Jurors allowance,

An Act for Supplying the defects in the Act Entituled, *An Act Encouraging the Killing of Wolves.*

WHEREAS by the Act Entituled, An Act Encouraging the Killing of Wolves, made and passed at the Session of the General Assembly, begun and held at Bolton the Thirtieth day of May, in the Fifth Year of Their present Majesties Reign; there is Provision for payment to be made unto the person or persons who shall Kill any grown Wolf or Wolves Whelp, out of the Town Stock, in which such Wolf is Killed, or of the Town lying next Adjacent thereto, and that the said disburse, the same being made to appear, shall be allowed unto such Town, by the General Treasurer of the Province out of the Publick Treasury,

But forasmuch as there is no particular direction in the said Act how or in what manner such payment out of any Town Stock shall be made appear, so as to justify the Treasurer in allowing of the same; and the better to prevent any fraud therein.

Be it Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That every person or persons Killing any grown Wolf or Wolves whelp (other than such as shall be taken out of the Belly of any Bitch Wolf) within any Town of this Province, and bringing the head thereof unto the Constable of such Town or of the Town next adjacent, the Constable in the presence of one or more of the Select men, shall cut both the Ears off the same, and such Select man or men and Constable, shall give the party a Receipt for the said head, expressing whither it be a grown Wolf or a Whelp; and upon producing such Receipt, the party shall be paid and allowed by the Select men or Treasurer of such Town out of the Town Stock, for the same, as in and by the said Act is directed. And all such payments so made shall be Certified unto the Treasurer and Receiver General, under the hands of the major part of the Select men in such Town, and Town Treasurer (where any such be) or Town Clerk, in manner following, *That is to say,*

Constable & one or more Select men to give Receipt for Wolves Heads,

Mr. Treasurer,

THis may Certify, That there has been paid unto sundry persons out of the Town Stock of *A.* for grown Wolves, and Wolves Whelps kill'd in and near unto our Town, since the day of last past, and the heads thereof brought unto our Constables, and so Certified unto us, in the whole the Sum of *Pounds* which Sum we desire you to allow unto our Town, by discounting the same with *B. C.* Constable, out of the Publick Assessment, committed to him to Collect in our Town. Dated in *A.* aforesaid, the day of

Certificate to the Treasurer

} Select men,
Town Treasurer.
Or
Town Clerk.

And be it further Enacted, That the Treasurer do cause a competent number of blank Certificates in the Form above-said, to be printed at the publick Charge, and affix his own Seal thereto, and is hereby Ordered to deliver so many unto the Select men of each Town and place respectively, or some one of them, as shall be necessary for the use of such Town or Place.

Incestuous Marriages.

A C T S and L A W S

Passed by the Great and General Court or Assembly of the Province of the Massachusetts Bay in New-England. Begun and Held at Boston, the Twenty-ninth Day of May, 1695.

An Act to prevent Incestuous Marriages.

ALTHOUGH this Court doth not take in hand to determine what is the whole Breadth of the Divine Commandment respecting unlawful Marriages. Yet for preventing of that abominable Dishonesty and Confusion which might otherwise happen.

Degrees of Kindred forbidden Marriage.

Be it Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That no man shall Marry any Woman within the degrees hereafter named in this Act, That is to say, No man shall Marry his Grand-fathers Wife, Wives Grand-mother, Fathers Sister, Mothers Sister, Fathers Brothers Wife, Mothers Brothers Wife, Wives Fathers Sister, Wives Mothers Sister, Fathers Wife, Wives Mother, Daughter, Wives Daughter, Sons Wife, Sister, Brothers Wife, Wives Sister, Sons Daughter, Daughters Daughter, Sons Sons Wife, Daughters Sons Wife, Wives Sons Daughter, Wives Daughters Daughter, Brothers Daughter, Sisters Daughter, Brothers Sons Wife, Sisters Sons Wife, Wives Brothers Daughter, Wives Sisters Daughter. And if any man have already Married, or shall hereafter Marry, or have carnal Copulation with any Woman who is within the degrees before recited in this Act; every such Marriage shall be and is hereby declared to be Null and Void. And all Children, that shall hereafter be born of such Incestuous Marriage or Copulation, shall be for ever disabled to Inherit by Descent, or by being generally named in any Deed or Will by Father or Mother.

Penalty for any within the said Degrees that shall Marry.

And be it further Enacted by the Authority aforesaid, That every Man and Woman who shall Marry, or carnally know each other, being within any of the degrees before recited in this Act, and shall be convicted thereof before His Majesties Justices of Assize and General Goal Delivery; such Man and Woman so convicted, shall be set upon the Gallows by the space of an hour, with a Rope about their Neck, and the other end cast over the Gallows: And in the way from thence to the Common Goal, shall be severely Whipped, not exceeding Forty Stripes each. Also every person so offending shall for ever after wear a Capital I of two inches long, and proportionable bigness, cut out in cloth of a contrary colour to their Cloaths, and sewed upon their upper Garments on the out side of their Arm, or on their back in open view. And if any person or persons having been convicted and sentenced for such Offence, shall at any time be found without their Letter so worn, during their abode in this Province, they shall by Warrant from a Justice of the Peace be forthwith Apprehended and Ordered to be publicly Whipp'd not exceeding Fifteen Stripes, and so from time to time toties quoties.

Penalty on such whose Marriage is declared Null to converse or dwell together.

And be it further Enacted by the Authority aforesaid, That if any Man or Woman whose Marriage is by this present Act declared Null and Void; shall be so hardy as to converse together as Man and Wife, or shall continue to dwell in the same House at any time after the space of forty day next after the Publication of this present Act, and be thereof

Incestuous Marriages.

79

of Convicted; or if any Man and Woman who shall hereafter be divorced or their Marriage declared to be null and void, according to the Law of this Province, shall Cohabit or Converse together as Man and Wife, and be thereof Convicted, all and every such persons shall suffer the pains and penalties mentioned in an Act made and passed by the Great and General Court or Assembly, at their Sessions begun and held the Thirtieth Day of May, One Thousand Six Hundred Ninety Four, Entituled, *An Act against Adultery and Polygamy*; which in and by the said Act are set and imposed upon such as shall be taken in Adultery. And it shall be in the power of the Justices of the Superiour Court of Judicature, to Assign unto any Woman so separated, such reasonable part of the Estate of her late Husband as in their discretion the circumstances of the Estate may admit, not exceeding one third part thereof.

And for the better preventing of Clandestine Marriages.

Be it Enacted by the Authority aforesaid, In Addition to the Act Entituled, *An Act for the orderly Consummating of Marriages*. That no Person other than a Justice of the Peace, and that within his own County only, or Ordained Minister, and that only in the Town where he is settled in the Work of the Ministry; shall or may presume to joyn any Persons together in Marriage; Nor shall any Justice or Minister, joyn any Persons in Marriage other than such, one or both of whom are Inhabitants or Residents in such County or Town respectively, nor without Certificate produced under the hand of the Clerk of the several Towns where the parties respectively dwell, that the names and intention of the said parties have been entered with him fifteen days before hand; and that due Publication of such their intention or purpose has been made in manner as by Law is directed; Nor without evident signification that the Parents of such persons, or others whose immediate care or government they are under, are knowing of and consenting to such Marriage: On pain that every Justice, Minister, or other person offending against this Act, shall for every such Offence, forfeit and pay the Sum of *Fifty Pounds*, as a fine for and towards the defraying of the Publick Charges arising within such County where the offence is committed, to be sued for and recovered by the County Treasurer in any of His Majesties Courts of Record within the same, by Bill, Plaint or Information; and shall and are hereby for ever after disabled to joyn persons in Marriage; and be further liable to the Action and Suit of the Parent, Guardian or others whose immediate care or government either of the parties were under at the time of such Marriage, that are agrieved thereat and shall prosecute the same.

Justices and Ministers not to Marry persons out of their County or Town respectively.

Names and intention of Marriage to be Entered with the Town Clerk.

Penalty on Justices or Ministers offending.

And be it further Enacted, That if at any time the Banns of Matrimony betwixt any persons shall be forbidden, the Publisher thereof shall forbear to proceed therein, until the matter have been duly inquired into and heard before two of the Justices of the same County, and that they certify under their hands, either that the cause was insufficient, or that it is removed.

Banns forbidden not to be out ask'd till the matter be heard, &c.

And all Marriages shall be Registred by the Town Clerk of the same Town where they are consummated; and every Justice or Minister as aforesaid, shall return a Note or Certificate unto the Clerk of the Town, of the names of all persons which they shall Marry, and of the time when, within three months at farthest after Consummation of the same, and shall allow and pay out of his Fee unto the Clerk for Entering the same *Three pence*: Any Law, Usage or Custom to the contrary notwithstanding.

Town Clerk to Register Marriages.

And be it further Enacted by the Authority aforesaid, That if any Man shall wear Womens Apparel; or if any Woman shall wear Mens

Penalty on men and women that shall wear contrary Apparel, ry Apparel.

Assize of Shingles. Marthas Vineyard.

Apparel, and be thereof duly Convicted ; they shall be corporally punished or Fined, at the discretion of the Quarter Sessions, not exceeding *Five Pounds*, to the use of the County where the Offense is Committed, towards the defraying of the County Charges.

An Act for Regulating the Assize of Shingles.

WHEREAS it has been accustomed that Shingles exposed to Sale, are close Packs up in Bundles, so that the quality of them cannot be seen, and do frequently fall short of the due Assize and Dimensi-
ons, whereby great Injustice may be done.

For Remedy whereof.

Assize of
Shingles.

Be it Enacted by the Lieutenant Governour, Council and Representatives, in General Court Assembled, and by the Authority of the same, That all Shingles exposed to Sale, shall be made of good sound Timber, and of the following Dimensions, *That is to say*, each Shingle to bear eighteen Inches or fifteen Inches in length ; and not under three and half Inches in breadth, nor under half an Inch thick, and well-shaved ; all Shingles of eighteen Inches and fifteen Inches respectively, to be made up in distinct Bundles by themselves.

All Shingles
under due
Assize, expo-
sed to sale to
be forfeited.

Justices of the
Peace to ap-
point a
Viewer.

Defective
Shingles for-
feited to be
to the use of
the poor.

And be it further Enacted by the Authority aforesaid, That from and after the first day of September next ensuing, No person shall expose to Sale any such Shingles, which are not of the full dimensions, of length, breadth and thickness aforesaid ; On pain of forfeiting every bundle, wherein any Shingles shall be found under any of the said dimensions of length, breadth or thickness. And if any person to whom any Shingles are tendered to be Sold, shall desire to have them viewed, upon his application made to a Justice of Peace, such Justice is hereby Impowred to make out a Warrant for the appointing and authorizing some able House-Carpenter to view and measure the same ; and to administer an Oath unto him to deal faithfully and impartially therein ; and in the presence of the Owner or Vender of such Shingles (if he see cause to be there) to perform the said Service, and to make seizure of all such bundles of Shingles, in which there shall be any found under the full dimensions above mentioned, in any particular thereof. And upon such return made by the said Officer under his hand to the Justice who granted the Warrant, such Justice shall declare the said Shingles to be forfeited ; and cause them to be delivered unto the Select-men or Overseers of the Poor of the Town, where they are offered to Sale, to be employed to and for the use of the Poor of such Town : The charges of viewing being first defrayed and answered for out of the same : But where there appears no defects, the person at whose desire the Survey is appointed, shall answer the whole charge thereof.

**An Act for the better Settlement of the Islands
of Marthas Vineyard, and Islands adjacent.**

BE it Enacted by the Lieutenant Governour, Council and Representatives, Condened in General Court or Assembly, and by the Authority of the same, That the Islands of *Marthas Vineyard*, *Elisabeth Islands*, the Islands called *Nomans-Land*, & all the dependencies formerly belonging to *Dukes County* (the Island of *Nantucket* only excepted) shall be, remain and continue to be one County

Settlement & Support of Ministers.

81

ty to all intents and purposes, by the name of *Dukes County* : And all Appeals from any Judgment or Judgments given or to be given in any of the Inferiour Courts of Pleas within the said County, shall henceforth be heard and tryed at the Superiour Court of Judicature to be holden from time to time at *Plymouth* within the Neighbouring County of *Plymouth*, any Law, Usage or Custom to the contrary notwithstanding : the Jurors to Serve at said Superiour Courts of Judicature to be from time to time chosen and summoned out of the several Towns within the said County of *Plymouth* and *Dukes County* according to the directions in the Law in such case provided. The Island of *Nantucket* to remain and continue under the same Form of Government as is already there settled : and Appeals from the Judgments given or to be given in the Inferiour Court of Pleas within the said Island, to be heard and tryed in the Superiour Court of Judicature to be held at *Boston* within the County of *Suffolk* as is by Law provided.

Appeals from
Courts in
Dukes County
to be to
Plymouth.

Appeals from
Courts in
Nantucket to
be to *Boston*.

An Act in further Addition to the Act Entitled, *An Act for the Settlement and Support of Ministers.*

BE it Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That when at any time a Church shall make choice of a Minister, and present their choice unto the Inhabitants of the Town or Precinct in a Publick meeting duly warned and assembled for that purpose, to have their concurrence therein ; and the Inhabitants so Assembled, shall by a major Vote deny their approbation of the Churches choice ; the Church may call in the help of a Council consisting of the Elders and Messengers of three or five Neighbouring Churches, which Council are hereby Impowred to Hear, Examine and Consider the exceptions and allegations made against the Churches Election. And in case the Council shall notwithstanding approve of the said Election, such Minister accepting of the Choice, and settling with them, shall be the Minister of the Town or Precinct, who shall be in all respects supported and maintained, as by the said Act is provided ; but if otherwise, the Church shall proceed to the Election of another Minister.

And it is further Declared, That no person by reason of his Voting in the Church shall be precluded from Voting as an Inhabitant of the Town : Any Law, Usage or Custom to the contrary notwithstanding.

L A C T S

Suppressing Unlicensed Houses.

ACTS and LAWS

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*. Begun and Held at *Boston*, the Twenty ninth Day of *May*, 1695. And continued by several Adjournments until the Twentieth of *November* following.

An Act for the better discovery and more effectual Suppressing of Unlicensed Houses.

FORASMUCH as divers Ill disposed and Indigent Persons, the Pains and Penalties in the Laws already made not regarding, are so hardy as to presume to Sell and Retail Strong Beer, Ale, Cyder, Perry, Wine, Rhum, or other Strong Liquors or mixt Drinks, and to keep common Tipling Houses, therein harbouring and entertaining Apprentices, Indians, Negroes, and other idle and dissolute persons, tending to the ruin and impoverishment of Families, and to all Impiety and Debaucheries; And if detected and convicted of any such Offence, are unable to satisfy the Fine imposed by Law for the same: And cannot be punished by Imprisonment without wrong to their Families.

For Remedy whereof, and the more effectual deterring and suppressing of such Evil Practices.

Be it Enacted by the Lieutenant Governour, Council and Representatives, in General Court Assembled, and by the Authority of the same, That when and so often as any person being duly convicted of keeping a common Tipling House, or Selling Strong Beer, Ale, Cyder, Perry, Wine, Rhum, or other strong Liquors or mixt Drink by Retail, without Licence first orderly had and obtained for the same, shall be unable to answer and satisfy the Fine imposed by Law for such Transgression, together with the Charge of Prosecution; or that shall not pay such Fine and Charges (and likewise give Bond for the good Behaviour, if it be a second conviction) within the space of twenty four hours next after Sentence declared in that respect: It shall and may be lawful to and for two Justices of the Peace, or the Court before whom the Conviction shall be, to order such Offender to be openly Whipt with so many Stripes as in their Discretion shall be thought fit, not less then ten, nor exceeding fifteen for one Offence; And to restrain the Offender in Prison, until the Fine and Charges as aforesaid are paid, or the Order for corporal punishment be Executed.

Persons unable to pay the Fine to be Whip't.

Officers power to seiz drink found in Unlicensed Houss.

And be it further Enacted by the Authority aforesaid, That it shall & may be lawful to and for any Grand Jurors, Constable, Tything-men, & the Officers employed in and about the Excise, *Ex Officio* to enter into the House & Dependencies thereof, of any such person as aforesaid, suspected of Selling strong Drink without Licence, having once been convicted thereof, and taking with them such assistance as they shall think needful, to make search for strong Drink, & finding any quantity of any kind of the Drinks herein before mentioned, to seiz and secure the same, so as it be within the space of one year next after such conviction, and to inform thereof at the next General Sessions of the Peace to be holden within the same County, or unto two Justices of the Peace (*Quorum Unus*) within the same; And if the quantity of Drink so seized shall be judged by such Court or Justices to be more than for the necessary use of the Family, and what the condition may reasonably allow them to Expend, or otherwise to have in their Custody: It shall and may be lawful to and for such Court or Justices to declare all such Drink to be forfeited; one Moiety thereof unto the party that seized and informed of the same, and the other Moiety to the Select-men or Overseers of the Poor of the Town where it was Seized, to the use of the Poor there, & to order the disposal thereof accordingly.

Appeal from the Sentence of 2 Justices. Provided nevertheless, That any person aggrieved at the Sentence of any two Justices for either of the Offences before-mentioned may Appeal therefrom unto the next General Sessions of the Peace within the same County; Provided such Appeal be claimed in due time, and security given in manner as the Law in such cases directs.

An

Affidavits taken out of Court.

83

An Act for taking of Affidavits out of Court.

FORASMUCH as it is often necessary, That Witnesses in Civil Causes be Sworn out of Court, when by reason of their going to Sea, living more than Thirty Miles distant from the place where the Cause is to be Tryed, Age, Sickness or other Bodily Infirmitie, they are rendered incapable of Travail, and appearing in Person at the Court. To the intent therefore that all Witnesses may indifferently testify their certain knowledge, and the whole truth in the Cause they are to speak unto.

Be it Enacted by the Lieutenant Governour, Council and Representatives, in General Court Assembled, and by the Authority of the same, Adverse party to have Justice of the Peace, or others lawfully Commissionated and Impowred thereto by two or more of the Justices of the Superiour or Inferiour Court respectively, may take Affidavits out of Court, so as a Notification with reasonable time be first made out and delivered to the adverse Party (if within twenty miles of the place) or left at the place of his Dwelling or usual Abode, to be present at the time of taking such Affidavit, if he think fit; and every such Witness shall be carefully Examined and Cautioned to testify the whole truth; and being Sworn, the Justice shall attest the same, with the day, month and year of the Caption thereof, and that the adverse party was present (if so) or that a Notification was sent him, and shall seal up the Testimony, and deliver it to the Party (if desired) at whose Request it was taken: And no person interested shall write or draw up the Testimony of any Witness in such Cause, nor any Attourney in his Clients Cause; And if it manifestly appear any Testimony to be written or drawn up by any Interested, or the Attourney in the Cause, or be returned from any Justice of the Peace by other hand than his own, into the Court where the same is to be used, unsealed, or the Seal having been broken up, all such Testimonies shall be rejected by the Court, and be utterly void, and of no effect in Law.

No person interested or the Attourney to write Affidavits.

Affidavits to be returned to the Court Sealed up.

And be it further Enacted by the Authority aforesaid, That every Justice of the Peace shall be, and hereby is Impowred, upon Request to him made, to Grant Summons for the Appearance of any Witness before him in any Civil or Criminal Cause, where such Witness is bound to Sea before the time of Tryal, and to take his Deposition in such Cause, the adverse party being present, or notification sent him as aforesaid.

Justices to grant Summons for Witnesses.

Provided nevertheless, That Witnesses to Bonds, Specialties, Letters of Attourney, and other Instruments in writing under the Hand of the Party Executing the same, or to Accompts or Testimonies relating to persons out of this Government, or to be sent beyond Sea, may be Sworn without such Notification as aforesaid.

Witnesses to Bonds and other writings may be Sworn without notification.

And be it further Enacted by the Authority aforesaid, That all Affidavits relating to the Possession of any Houses or Lands, or any other matter, in perpetuum rei memoriam, shall be made and taken before some Court of Record, or two or more Justices of the Peace, Quorum Unus.

Affidavits in perpetuum rei memoriam to be Sworn in Court or before Justices.

And it is further Enacted, That all persons Forfeaturing themselves in any such Affidavits taken as aforesaid, shall incur the same Penalties, as if they had been taken in open Court.

Penalty for perjury.

Grant of a Tax.

ACTS and LAWS

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts Bay* in *New-England*. Begun and Held at *Boston*, the Twenty ninth Day of *May*, 1695. And continued by several Adjournments until the Twenty sixth of *February* following.

An Act for the granting unto His Majesty, An Additional Tax of *Two Thousand Three Hundred Thirty Three Pounds, Nine Shillings and Three-pence*, unto the Tax upon Polls and Estates, granted by an Act of this Court, at their Sessions begun the Twenty-ninth Day of *May* last past.

FOR the Support of the Government within this His Majesties Province of the *Massachusetts Bay*, and answering of the incident and contingent Charges in and about the same: For a vigorous Prosecution of the War against the French and Indian Enemy and Rebels; For the payment of just Debts already Contracted, or to be Contracted on the Publick Account within this Province, and such Grants and Allowances as have been or shall be made and ordered by the General Court or Assembly to particular persons; For the Repairs and Support of His Majesties Castle, upon *Castle-Island*, and the Garrison there; For the making good One Hundred Pounds Miscast in the Grant of Nine Thousand Five Hundred Fifty Nine Pounds, including a former Grant by Act of the General Assembly, Passed at their Sitting by Adjournment the Fifth Day of September, One Thousand Six Hundred Ninety Four, Entituled, An Act, For Regulating of the late Tax, and for Granting an Additional Supply of Mony. To the ends and intents aforementioned, and none other. We the Representatives of this His Majesties said Province of the *Massachusetts Bay* Do Grant unto His Most Excellent Majesty, a Tax of *Two Thousand and Eight Pounds, Nineteen Shillings and Three-pence* in Money, to be Raited and Levied upon Polls and Estates, both real and personal within the same, as in and by this present Act for the manner and proportion thereof, is directed and set forth.

And be it Enacted by the Lieutenant Governour, Council and Representatives, in General Court Assembled, and by the Authority of the same, That the Treasurer do forthwith make out and send Warrants to the Select men or Trustees, and Commissioner of each respective Town and Precinct within this Province, Requiring them to assess all their rateable Male Polls and Estate, both real and personal, lying within such Town or Precinct, and the Dependences thereof, one full and just third part of the Sum total of the two several Lists returned unto the Treasurer, upon the Grant made at the Session of this Court, begun and held the Twenty Ninth of *May* last past; the Lists of the same that are returned amounting to the Sum of *Six Thousand and Twenty Six Pounds Seventeen Shillings and Eight Pence*. Which said third part is to be assessed proportionably upon Polls and Estates, according to the Rules and Directions in the Act for the said Grant prescribed and particularly set down, and the said Lists so made, to return unto the Treasurer, with a Notification of the Names of the Constables or Collectors of such Town or Precinct respectively, at or before the last day of *March* Instant. And the Treasurer is hereby further Impowred and Ordered to send out Warrants directed to the Constables or Collectors of the said several Towns and Precincts, together with the said Lists, requiring them to collect & pay in the Sum therein mentioned, into the Treasury, and to Issue their Accompts thereof with himself or Successor, at or before the Twenty Ninth Day of *May*, which will be in the Year of our Lord God, One Thousand Six Hundred Ninety Six.

Provided nevertheless, Forasmuch as the Select men or Trustees of the several Towns and Precincts hereafter named, have omitted their Duty, in not returning unto the Treasurer the Lists of their said Towns or Precincts respective Sums

Grant of a Tax.

85

Sums and Proportions unto the aforesaid Tax Granted by this Court at their Session begun the Twenty Ninth Day of May last past, and have hitherto paid nothing towards the same. To the intent therefore that they may bear their just and equal proportion of Publick Charges.

Be it Enacted by the Authority aforesaid, That the said several Towns and Precincts, shall pay towards the said former, and this Additional Grant the respective Sums following. *That is to say,*

	l	s	d
Tork, Ten Pounds.	10	00	00
Wells, Ten Pounds.	10	00	00
Kittery, Twenty Pounds.	20	00	00
Iste of Shoales, Five Pounds.	5	00	00
Edgar Town, Forty One Pound.	41	00	00
Chilmark, Twenty One Pounds, six shillings, eight pence.	21	06	08
Tisbury, Twenty One Pounds six shillings eight pence.	21	06	08
Nantuckett, Eighty Pounds.	80	00	00
Southfield, Twenty Pounds.	20	00	00
Enfield, Five Pounds.	05	00	00
Eastbam, Ninety Pounds, sixteen shillings eight pence.	90	16	08

The whole proportion of the said before named Towns and Precincts, amounting to Three Hundred Twenty Four Pounds Ten Shillings being added to the Two Thousand and Eight Pounds Nineteen Shillings and Three pence before mentioned, makes this Additional Grant to be Two Thousand Three Hundred Thirty Three Pounds Nine Shillings and Three pence, & the whole Tax (including the Sum formerly returned) to be Eight Thousand Three Hundred and sixty Pounds Six Shillings and Eleven pence.

And the Treasurer is hereby Ordered forthwith to send out Warrants directed unto the Select men, or Trustees and Commissioner for Assessment (if any such there be) of the several Towns and Precincts before-named, requiring them forthwith to assess the Sum herein set and proportioned, unto the said several Towns and Precincts, upon all the rateable Male Polls and Estate, both real and personal lying within the same, according to the Rules and Directions in the Act for the aforesaid Grant, and in this present Act prescribed and set down and to return a List thereof unto himself, at or before the last day of March Instant: And the Treasurer upon Receipt of the same is hereby further Impowered and Ordered to send forth his Warrants, together with the said Lists, unto the Constables or Collectors of the said several Towns and Precincts requiring them to collect and pay in the Sum therein mentioned into the Treasury, and to issue their Accompts thereof with himself or Successor, as aforesaid, at or before the said Twenty Ninth Day of May, which will be in the Year of our Lord God, One Thousand Six Hundred Ninety Six.

And for the better Enabling the Treasurer to Enforce the bringing in of the Monies herein mentioned to be Granted, & the Arrears of all Publick Rates & Taxes whatsoever, at any time or Times heretofore granted either due from any Town or Towns, or in the hands of any Sheriff, Constable or Collector, the Accompts whereof lye open & unfinished, or where any Select-men or Assessors have or shall fail of performing the Duty & Service lawfully required of them.

Be it Enacted by the Authority aforesaid, That the Treasurer shall be, and hereby is fully Impowered & Authorized, to take, use and execute all such Methods, Directions, Powers, & Authorities as have heretofore been given him in and by any Act or Acts of the General Assembly, or in any Clause, Branch or Article thereof, for the obtaining and drawing into the Treasury as well all the Monies mentioned to be Granted in and by this present Act, as all Arrears of any former, and other Rates and Taxes whatsoever, as fully & effectually as if the same Directions, Methods, Powers, & Authorities had herein been again particularly Recited & Re-enacted, and notwithstanding any limitation or restraint thereof in the particular Act or Acts wherein the same are enumerated, set down and expressed. And all Select-men, Trustees or Assessors, Sheriffs, Constables or Collectors failing of performing the Duty and Service of them respectively required, shall be liable and subjct unto the like Pains, Penalties and Forfeitures to be profecuted, had and recovered of them in the same way and manner, and before the same Judicatories, as in and by the said Acts, or any of them are set, declared and prescribed. And

Encouragement to make Salt.

And be it further Enacted, That the Treasurer be, and is hereby Impow-
red to Issue forth and pay a certain number of Bills of Credit, to the value of
Four Thousand Pounds more than what is before Ordered according to the a-
foresaid Act for which this present Tax, and the Impost and Excise shall be a
Fund.

And be it Declared and Enacted by the Authority aforesaid, That the
Accounts of the Issuing and Disposal of Monies and Sums of Money granted
and raised, and that hereafter shall be granted and raised by the General
Assembly, for the Support and Defence of this His Majesties Province, and that
hath or shall come into the Publick Treasury, by any other wayes or means
whatsoever, shall be by the Treasurer laid before the Great and General As-
sembly, when by them required, for their Examination, Approbation and Al-
lowance from time to time as hath been accustomed. And all such Approbati-
ons and Allowances of the General Assembly heretofore, and that hereafter shall
be passed, shall be to the Treasurer a full and final Discharge.

An Act for the Encouragement of making
Salt, within this Province.

FORASMUCH as the Inhabitants of this Province are brought into great
Straits by reason of the dearth and scarcity of Salt; Many of our
Vessels employed in fetching of it from Tartouda, and other Places, be-
ing taken by Privateers, and others Discouraged from Undertaking such
Voyages during this time of War: And whereas Elisha Cook, Elisha Hutchin-
son, and John Foster, Esqrs. have informed this Court, that Proposals have
been offered them of the possibility of making Salt here after the manner as it is
made in France. For a Trial whereof, a considerable Sum of Money
must be advanced, and great pains taken, and that with uncertainty of
Success.

Wherefore for the promoting of a Design that will be so universally
beneficial, It is take effect.

Be it Enacted by the Lieutenant Governour, Council and the
Representatives in General Court Assembled, and by the Authority
of the same, That the whole privilege and benefit of making Salt within
this Province, shall be to the said Elisha Cook, Elisha Hutchinson, and John
Foster and to their Associates, during the space of Fourteen Years: And
if any person or persons shall make any Salt as above-said within this Province
during the said Term of Fourteen Years next coming; or shall Import any
Salt into this Province, made as above-said in any other Province or Place in
New England: They shall yield and pay as a Custome, the value of *Ten Shil-
lings per Hoghead* for all such as shall be Imported as above-said; one half to
the Undertakers, Elisha Cook, Elisha Hutchinson, and John Foster Esqrs. and their
Associates, the other half to the use of the Poor of the Town where the same
shall be Seized, to be Recovered, as other Customs are; whether the same
be Seized on Board any Ship or Vessel Importing it; or in any Store-house,
or Place on Shore, within six months after its being so Imported. *Provided*
that the said Elisha Cook, Elisha Hutchinson, and John Foster, shall cause to be
made as above-said, One Hundred Hogheads of good Merchantable Salt
within this Province before the Expiration of the Year One Thousand
Seven Hundred. Any Law, Usage or Custom to the contrary notwith-
standing.

AN ACT

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*. Begun and Held at *Boston*, the Twenty-seventh Day of *May*, 1696.

An Act against Piracy & Robbing upon the Sea.

WHEREAS divers great Disorders, wicked practices and Depredations, have been and are frequently committed by several of His Majesties Subjects in and upon the Seas, to the great damage and prejudice of His Majesties Allies, and contrary to Treaties of Peace, and the good Correspondence which ought to be maintained amongst Christian Kings, Princes and States, is thereby lessened and impaired. And whereas, also divers of His Majesties Subjects have and do commit divers Inhumane and Hostile Acts and Depredations upon the Subjects and Allies of divers Princes and States in Foreign Parts, in amity with His Majesty; which by reason of the remoteness of the place where the Fact was committed, can very rarely be proved by witness indifferent, and many times Kill and Murder such persons being in the Ship or Boat where such Offences are perpetrated, which should bear witness against them in that behalf. And whereas divers persons to whom private Commissions of War are granted, do many times take, rob and spoil the Ships, Goods, Merchandizes, and things belonging to the Subjects of Princes and States in amity with the Crown of England, and Burn, Sink or Destroy such Ships or Vessels wherein such Goods, Merchandizes and Things were taken, that the same may not be discovered and known, contrary to the intent and meaning of the Granting of such Commissions, and the Instructions therewith given them. Which disorders, wicked practices and depredations ought to be detested and abhorred by all His Majesties Subjects: And for prevention and reformation thereof.

Be it Enacted by the Lieutenant Governour, Council and Representatives Convened in General Assembly, And it is hereby Enacted by the Authority of the same, That all Treasons, Felonies, Robberies, Murthers and Confederacies hereafter to be committed in or upon the Sea, shall be Enquired, Tried, Heard, Determined and Judged in such Counties and Places as shall be limited by Commission or Commissions from the Governour, Lieutenant Governour, or Commander in Chief for the time being of this Province, by & with the advice and consent of the Council, to be directed for the same in like manner and form, as if such Offence or Offences had been committed or done in or upon the Land: And such Commissions shall be had under the Seal of the Province, directed to three or more substantial persons from time to time, and as oft as need shall require to hear and determine such Offences after the common course of the Laws of this Province, used for Treasons, Felonies, Robberies, Murthers and Confederacies done and committed upon the Land within the same.

And be it Enacted by the Authority aforesaid, That such persons to whom such Commission or Commissions shall be directed, or three of them at the least, shall have full power and authority to enquire of such Offences, by the Oaths of twelve good and lawful Inhabitants in the Shire limited in their Commission in such like manner and form, as if such offences had been committed upon the Land within the same Shire: And that every Indictment found and presented before such Commissioners, of any Treasons, Felonies, Robberies, Murthers, Man slaughters, or such other offences committed or done in and upon the Seas, shall be good and effectual in the Law: And if any person or persons happen to be Indicted for any such offence hereafter to be done in and upon the Seas, or in any other place above limited; That then such Order, Process, Judgment and Execution shall be used, had, done or made, to, and against

Treasons,
Felonies,
Robberies
&c. committed on the Sea, to be heard & judged in such Counties and as shall be limited by Commission.

Such Offences to be enquired of by the Oath of twelve men.

Alike Process to be made & used as for such Offences done upon the Land.

against every such person and persons so being indicted and found, as against Traytors, Felons and Murderers, for Treason, Felony, Robbery, Murder, or such other Offences done upon the Land, as by the Laws of this Province is or shall be accustomed. And that the Tryal of such Offence or Offences, if it be denied by the Offender or Offenders, shall be had by twelve lawful men Inhabiting in the Shire, limited in such Commission, which shall be directed as is aforesaid. And such as shall be convicted of any such Offence or Offences by Verdict, Confession or Process by Authority of any such Commission, shall have and suffer such pains of Death, losses of Goods and Chattels, as if they had been attainted and convicted of any Treasons, Felonies or Robberies, or other the said Offences done upon the Land, for and towards the Support of the Government within this His Majesties Province.

Saving for persons compelled by necessity that shall take Victuals, &c. that may be conveniently spared:

Provided always, That this Act extend not to be prejudicial or hurtful to any person or persons, for taking any Victual, Cables, Ropes, Anchors or Sails, which any person or persons (compelled by necessity) taketh of or in any Ship which may conveniently spare the same, so as the same person or persons pay out of hand for the same Victual, Cables, Ropes, Anchors or Sails, Money, or Money-worth, to the value of the thing so taken, or do deliver for the same a sufficient Bill Obligatory payable in reasonable time, not exceeding twelve months; and that the makers of such Bills well and truly pay the same Debt at the day to be limited within the said Bills.

Suspected persons to be seized and secured, as also their Treasure.

And be it also further Enacted by the Authority aforesaid, That if any suspected person or persons, shall hereafter bring into this Province any Foreign Coines, Gold, Bullion, Merchandize and other Treasure, supposed to be taken in and upon the Seas, in manner aforesaid: That then, & in every such case, the next Justice or Justices of the Peace, or other Magistrate then present upon the place, are hereby required & impowred upon his or their own knowledge or information given to him or them thereof to Grant Warrants to the Sheriff or Constable of the Place, to Apprehend and Seiz every such person or persons, his and their Money, Gold, Bullion, Merchandize and Treasure, & to bring the same before such Justices or Magistrates, to be Examined and Proceeded against as the Law directs; and in case such suspected person or persons cannot produce a Certificate, or produce two Evidences, where and how he came by such Monies, Gold, Bullion, Merchandize or Treasure, then such Justices or Magistrates may commit such person or persons to Goal, without Bail or Mainprize, until he or they be discharged by Law, & secure such Monies, Gold, Bullion, Merchandize or Treasure, to be disposed of as the Law directs. And every such Sheriff or other Officer, to whom such Warrant or Warrants shall be directed, shall require & take such a number of persons with Arms, or otherwise, as he or they shall think meet, for the seizing & apprehending such person or persons, & carrying him or them before such Justice or Magistrate as aforesaid, and every person or persons refusing or neglecting to be aiding and assisting to such Officer or Officers, in the Execution of such Warrant or Warrants, shall be proceeded against as the Law directs, & in such manner, & under such Penalties, as in other the like cases is accustomed and provided; and every such Officer or Officers offending or neglective in his Office, and Execution thereof, shall be punished as the Law also directs.

Officers to be assisted in making such seizures.

Penalty for neglect.

Private men of War to bring what they take in to some of His Majesties Ports for adjudication according to their Instructions.

And it is hereby further Enacted, That if any person or persons to whom such private Commission or Commissions is, are or shall be granted, do hereafter take, surprize and seiz any Ship, Vessel, Goods, Merchandizes and Things of the Subjects of any Prince or State whatsoever, and do not bring such Ship, Vessel, Goods, Merchandizes & Things into some Port or Ports belonging to His Majesty, pursuant to their Commissions and Instructions, there to receive legal Condemnation, unless hindered by the inevitable Providence of God, whereof sufficient proof shall be made, or produce two at least of the Company belonging to the Ship or Vessel so taken, to manifest that the Ship, Vessel and Goods so taken, belonged at the time of the Caption thereof to the Subjects of the Enemies of the Crown of England, shall be prosecuted as Robbers and Felons, and as if no such Commission or Commissions had been granted to them, and under such pains and penalties as before in this Act is mentioned inflicted and declared.

ACTS

Insolvent Estates.

89.

ACTS and LAWS

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts Bay* in *New-England*. Begun at *Boston*, the Twenty-seventh Day of *May*, 1696. And continued by several Adjournments until the Eighteenth of *November* following.

An Act for the Equal Distribution of Insolvent Estates.

BE it Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and it is Enacted and Ordained by the Authority of the same, That when the Estate of any person Deceased shall be Insolvent or Insufficient to pay all just Debts which the Deceased owed, the same shall be set forth and distributed to and among all the Creditors in proportion to the Sums to them respectively owing so far as the said Estate will extend, saving that the Debts due to the Crown, the Sicknes and necessary Funeral Charges of the Deceased are to be first paid. And the Executor or Administrator appointed to any such Insolvent Estate before payment to any be made (except as aforesaid) shall represent the condition and circumstances thereof unto the Judge for Probate of Wills, and granting of Administrations; and the said Judge shall nominate and appoint two or more fit and indifferent persons to make a true and equal Apprizeement of such Estate, and Administer an Oath unto them for that purpose; and shall also nominate and appoint two or more fit persons to be Commissioners, with full power to receive and examine all Claims of the several Creditors, and how they are made out: And such Commissioners shall cause the times and places of their meeting to attend the Creditors for the receiving and examining of their Claims to be made known and published by Posting up the same in some publick places in the Shire Town of that County where such Deceased person last dwelt, and of the two next adjoining Counties. And six, twelve or eighteen months time (as the circumstances of any Estate may require) shall be allowed by the Judge unto the Creditors for bringing in their Claims, and proving their Debts. At the end of which limited time, such Commissioners shall make their Report, and present a List of all the Claims unto the said Judge, who shall order them meet Recompence out of the Estate, for their care and labour in that Affair: And, the Debts due to the Crown, Sicknes and necessary Funeral Charges as is herein before provided, being first subducted, shall order the Residue and Remainder of the Estate to be paid and distributed to and among the other Creditors that shall have made out their Claims in due proportion to the Sums unto them respectively Owing according as the Estate will bear; saving unto the Widow, if any be, her right of Dower according to Law in the Houses and Lands of the Deceased, the Widows Dower at the Expiration of her Term to be also distributed among the Creditors in a like proportion.

Manner of Distribution.

Apprisers to be Sworn.

Commissioners to receive the Claims.

Debts may be contested at common Law.

Process suspended whilst the Commission is depending.

Provided, That notwithstanding the Report of any such Commissioners or allowance thereof made, it shall and may be lawful to and for the Executor or Administrator, to contest the proof of any Debt at the common Law.

And no Process in Law (except for Debts due to the Crown, Sicknes and Funeral Charges) shall be allowed against the Executors or Administrator of any Insolvent Estate so long as the same shall be depending as aforesaid.

M

And

Assize of Bread.

Creditors excluded that bring not in their Claims.

Persons suspected of concealment or Imbezement to be Sworn.

Penalty for refusing.

Appeal.

And whatsoever Creditor shall not make out his or her Claim with such Commissioners before the full Expiration of the limited time, such person shall be for ever after debarred of his or her Debt, unless he or she can find some further Estate of the Deceased's, not before discovered and put into the Inventory.

And be it further Enacted by the Authority aforesaid, That every Judge for Probate of Wills and granting Administrations within the respective Counties, be, and hereby is fully Authorized and Impowred to call before him, &c to require and administer an Oath unto any person or persons probably suspected by any Executor or Administrator to have concealed, imbezeld or conveyed away any of the Money, Goods or Chattels left by, the Testator, or Intestate for the discovery of the same. And in case any such suspected person was betruſted by the person deceased, attended upon, or was otherwise conversant with or near unto him in the time of Sickneſs, or left in poſſeſſion of the Estate whereby to ſtrengthen and make the ſuſpicion more violent, &c ſhall reſuſe to clear and acquit him or her ſelf upon Oath. It ſhall and may be lawful for, and the Judge is hereby Impowred to commit ſuch perſon to reſuſing to ſwear, unto the Goal of the County, there to remain until he or ſhe ſhall comply to diſcharge him or her ſelf upon Oath as aforeſaid, or be releaſed by conſent of the Executor or Administrator.

Saving unto any perſon agrieved at any Sentence, Order or Decree, made by the Judge of Probate, liberty of an Appeal unto the Governour and Council; ſuch Appellant giving Bond in a reaſonable Sum with ſufficient Security to proſecute his Appeal with effect, and to abide and perform the determination that ſhall be made thereupon.

An Act for the due Aſſize of Bread.

BE it Enacted by the Lieutenant Governour, Council and Representatives in General Court Aſſembled, and by the Authority of the ſame, That henceforth every Loaf Bread Baker ſhall have a diſtinct mark for his Bread, and keep the due Aſſizes hereafter expreſſed as well for what he Bakes for Sale, as to be ſpent in his Family. That is to ſay, The Aſſize of Bread ſhall be rated according to the middle Price of Wheat not to be altered but upon the increaſing or decreaſing of Six-pence in the Sale of a Buſhel: The Penny Loaf to weigh by Averdupois weight as is hereafter mentioned, according to the different prices of Wheat by the Buſhel.

Viz.	Price of Wheat		Weight of penny white loaf,		Weight of penny wheaten,		Weight of penny buſhell.	
	s.	d.	oz.	dr.	oz.	dr.	oz.	dr.
At	3	0	11	4	17	2	23	00
	3	6	10	2	15	3	20	04
	4		09	2	13	7	18	04
	4	6	08	3	12	5	16	06
	5		07	5	11	4	15	03
	5	6	07	1	10	5	14	02
	6		06	4	09	7	13	01
	6	6	06	0	09	0	12	00
	7		05	6	08	5	11	04
	7	6	05	2	08	1	10	04
	8		05	0	07	4	10	00
	8	6	04	6	07	1	09	04
	9		04	4	06	6	09	00

And

Lands liable to pay Debts.

91

And so proportionably under the penalty of forfeiting all such Bread as shall not be of the several Assizes afore mentioned, to the use of the poor of the Town where the same shall be Seized, and otherwise as is hereafter expressed.

And for the better discovery and more effectual preventing of fraud and deceit in the Assize of Bread.

Be it Enacted by the Authority aforesaid, That the Clerks of the Market in each Town within this Province, or any one of them, shall and are hereby impowred and required once every week or oftner as they shall see cause, to enter into any Shop or Place where Bread is usually Sold or Baked for Sale, and to weigh the same; and all such Bread which they shall find under the due Assize according to the proportion before mentioned, or not being marked, to make Seizure of, and deliver two third parts thereof unto the Select-men or Overseers of the Poor in such Town, for the use of the poor within the same; the Officer to have the other third for his pains. And the Constable or Constables of such Town are hereby ordered to be aiding and assisting unto such Clerk or Clerks of the Market for the due Execution of their Office, when he or they shall be thereunto required.

Clerks of the Market power & duty.

And be it further Enacted, That the Select-men in each Town where Bread is Baked for Sale shall once a month, or oftner as they shall see cause inquire, state and record the middle price of Wheat, and cause the same to be made known by posting it up in some publick place or places in such Town, and the Bakers shall accordingly regulate the Weight of their Bread after the Assizes herein before-mentioned.

Select men to state the price of Wheat.

And be it further Enacted by the Authority aforesaid, That all Bisket Sold by Tale shall be alike marked and made of the same Assize with the penny loaf, on pain of forfeiture as aforesaid. And the Clerks of the Market are hereby required and impowred to Weigh all such Bisket, and to make Seizure of all that shall be unmarked or under Weight, to be imployed and disposed of as aforesaid; and all Bisket Sold by Weight shall be dried fit for the Sea.

Bisket Sold by Tale to be Markt & of due Assize

An Act for making of Lands and Tenements liable to the payment of Debts.

WHEREAS the Estates of Persons within this Province do chiefly consist of Houses and Lands, which give them Credit, some being remiss in paying of their just Debts, and others hapning to dye before they have discharged the same.

Be it therefore Enacted and Ordained by the Lieutenant Governour, Council and Representatives, in General Court Assembled, and by the Authority of the same, That all Lands or Tenements belonging to any person in his own proper right in Fee, shall stand Charged with the payment of all just Debts owing by such person, as well as his personal Estate; and shall be liable to be taken in Execution for Satisfaction of the same; where the Debtor or his Attorney shall not expose to view and tender to the Officer personal Estate sufficient to answer the Sum mentioned in the Execution with the Charges.

Lands and Tenements liable to Execution.

And all Executions duly Served upon any such Houses and Lands, being returned into the Clerks Office of the Court out of which the same

Execution duly served & Recorded to make a good Title.

Murthering Bastard Children.

Justices of
the Superi-
our Court
Impowred
to Licence
the Sale of
Lands, &c.

Debts to the
Crown to be
first paid.

Fraudulent
Deeds to be
void.

issued and there Recorded, shall make a good Title to the Party for whom they shall be so taken, his Heirs and Assigns for ever. Also where the Goods and Chattels belonging to the Estate of any person Deceased, shall not be sufficient to answer the just Debts which the Deceased Owed, or Legacies given : Upon Representation thereof, and making the same to appear unto the Superiour Court of Judicature holden for or within the County where such Deceased person last dwelt ; the said Court are hereby Impowred to Licence and Authorize the Executor or Administrator of such Estate to make Sale of all or any part of the Houses and Lands of the Deceased so far as shall be necessary to satisfy the just Debts which the Deceased owed at the time of his Death, And Legacies bequeathed in and by the last Will and Testament of the Deceased. And every Executor or Administrator being so Licensed and Authorized as aforesaid, shall and may by virtue of such Authority, Make, Sign and Execute in due form of Law Deeds and Conveyances for such Houses and Lands as they shall so Sell ; which Instruments shall make a good Title to the Purchaser, his Heirs and Assigns for ever.

Provided nevertheless, That any Debt or Debts due to the Crown from any such Estate, shall be first secured and paid out of the same.

And be it further Enacted by the Authority aforesaid, That when any person or persons shall make Sale or other Alienation of any Lands or Tenements to him of right belonging, with intent to defeat and defraud his Creditors of their just Debts not *bona fide* for good and valuable consideration truly paid. All such Sales and Alienations are to be deemed covenous and fraudulent, and shall be of none effect to bar any Creditor from such Debt as is to him Owing.

An Act to prevent the Destroying and Murthering of Bastard Children.

WHEREAS many Lewd Women that have been Delivered of Bastard Children, to avoid their shame, and to escape punishment, do secretly Bury or Conceal the Death of their Children, and after, if the Child be found Dead, the said Women do alledge that the said Child was Born Dead, whereas it falleth out sometimes (although hardly it is to be proved) that the said Child or Children were murthered by the said Women their lewd Mothers, or by their assent or procurement.

Be it therefore Enacted by the Lieutenant Governour, Council and Representatives, Convened in General Assembly, and by the Authority of the same, That if any Woman be Delivered of any Issue of her Body, Male or Female, which if it were Born alive, should by Law be a Bastard ; and that she endeavour privately, either by Drowning or secret Burying thereof, or any other way ; either by her self, or the procuring of others so to conceal the Death thereof, that it may not come to light, whether it were Born alive or not, but be concealed. In every such case the Mother so offending, shall suffer Death, as in case of Murther : Except such Mother can make proof by one Witness at the least, that the Child whose Death was by her so intended to be concealed, was Born Dead.

An Act against High Treason.

BE it Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That if any person or persons shall compass or imagine the Death of Our Sovereign Lord the King, or of Our Lady His Queen, or of the Heir apparent to the Crown. Or if any person shall Levy War against our Lord the King, or be adherent to the Kings Enemies, giving them aid and comfort in the Realm or elsewhere, and thereof be probably attainted of open deed by his Peers upon the Testimony of two lawful and credible Witnesses upon Oath brought before the Offender face to face, at the time of his Arraignment, or voluntary Confession of the Party Arraigned. Or if any person or persons shall counterfeit the Kings Great Seal or Privy Seal, or the Seal of this Province, and thereof be duly Convicted as aforesaid. Then every such person and persons so as aforesaid offending, shall be deemed, declared and adjudged to be Traitors, and shall suffer pains of Death, and also loose and forfeit as in cases of High Treason.

Compassing or imagining the Death of the King, &c.

Levying War against the King.

Counterfeiting the Kings great Seal, &c.

And be it further Enacted by the Authority aforesaid, That the Tryals of all and every person and persons whatsoever Accused, Indicted and Prosecuted for High Treason and Misprision of such Treason, shall be regulated according to the Act of Parliament made in the Seventh Year of His Present Majesties Reign, Entitled, *An Act, For Regulating of Tryals in cases of Treason and Misprision of Treason*: And the Party so accused, indicted and prosecuted, to be allowed the benefits and priviledges in and by the said Act, granted and declared.

Tryals to be Regulated according to the Law of England, in cases of Treason, &c.

An Act in Addition to the Act for preventing of Common Nufances arising by Slaughter-Houses, Still-Houses, &c.

FOR the better preventing of Desolation by Fire that may happen, by Drawing of Spirits, or melting down of Tallow.

Be it Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That if any Distiller or Tallow Chandler shall presume to Set up any Still or Stills for the drawing of Spirits, Copper or Furnace for the melting of Tallow, or make use of any Still, Copper or Furnace for either of the said ends in any House or Place other than such as are or from time to time shall be assigned for that purpose by the Select-men of the Town, with two or more Justices of the Peace contrary to the intent of the said Act; Every person and persons so offending, and being thereof duly convicted before His Majesties Justices in the Court of General Sessions of the Peace within the same County, shall not only incur the penalty or Fine in the said Act mentioned; but shall also enter into Recognizance to take down such Stills, Coppers or Furnace; and in default of entering into Recognizance as aforesaid, to be Committed to Prison until he do cause the same to be taken down; or else such Stills, Coppers or Furnaces shall be taken down by order of the said Court, and the Charge thereof to be levied by distress and sale of such Offenders Goods, returning the Over plus, if any be.

Court of Quarter Sessions Impowered to cause Stills for drawing of Spirits, or Furnaces for melting of Tallow set up without Order to be taken down.

An Act in Addition to the Act, for Regulating Ferries.

WHEREAS there is a constant Recourse of Travellers and others for Passage over the Ferries betwixt Bolton and Charlstown, and betwixt Bolton and Winifmet. Therefore for prevention of the great Inconvenience and Damage that doth or may happen to persons by being hindered and delayed at the said Ferries for want of speedy Transportation over the same.

Be it Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That the person or persons that are, or from time to time shall be employed for keeping *Winifmet* Ferry, shall constantly maintain a good Boat or Boats in good repair suitable for the said Ferry on each side of the Water, and that such Boats whether there be any Passengers in the same or not, shall put off from their respective Shoars to go to the other side upon each day in the week (the Lords Day excepted) at the Hours of five, seven, nine and eleven a Clock before noon; and at one, three, five and seven of the Clock after noon, throughout the whole year, so as it be within day-light: On pain, That every such Ferry-man or Ferry-men being complained of and convicted before any one or more of His Majesties Justices of the Peace of neglect of his Duty in not crossing the said Ferry at the several times and hours before-mentioned, shall forfeit and pay the Sum of *Twenty Shillings*, one half to the Informer or Complainant, and the other half to the use of the Poor of the Town of *Boston*. And such Justice or Justices may restrain the Offender or Offenders until he or they shall pay the said Sum.

Stated hours
for the Ferry
Boats passing
at *Winifmet*
Ferry.

Penalty for
Ferry-mens
neglect.

Posts, &c.
be speedily
transported.

Saving for
stormy Sea-
sons.

And be it further Enacted, That all Posts and Expresses for His Majesties Service, and other persons having extraordinary Business as in cases concerning Life and Death, shall be speedily Transported over the said Ferry at any time or season without delay, on the penalty aforesaid, any thing herein before contained to the contrary notwithstanding.

Provided nevertheless, That such Ferry-man or Ferry-men shall not be obliged to put off from their respective Shoars, and pass the said Ferry at any of the times or hours before stated, if it manifestly appear to be hazardous for them so to do by reason of any Storm or Tempest or that in the Winter the Ice do hinder the passing of any Boat across the said Ferry.

At *Charlstown*
Ferry, two
Boats not to
lie on the
same Shore.

And be it further Enacted by the Authority aforesaid, That when and so often as it shall happen, That the Boats employed for the Ferry betwixt *Boston* and *Charlstown*, shall be on the same Shore, upon the Landing of the second Boat, the first shall forthwith put off, and pass over to the other side, Passengers or no Passengers, on the like Penalty herein before expressed, and to be disposed of as aforesaid, to the use of the Poor of *Boston* or *Charlstown* respectively.

An Act to supply the defect in the Law referring to the choice and power of Tything-men, Enacted at the Session of the General Court in February, Anno. 1693:

WHEREAS it is provided in and by the said Act, That if any person Chosen to the Office of Tything-man, shall refuse to take his Oath, or Serve therein, he shall forfeit and pay the Sum of Forty Shillings, the said Forfeiture to be Levied by Distress and Sale of such Persons Goods: But no provision is made how to come at the said Forfeiture, if no Goods of such Persons can be found to Distress for the same,

It is therefore Enacted and Declared by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That in every such case where no Goods can be found wherewith to make Distress, it shall and may be lawful, to and for the Officer, to Seize the Body of the Offender, and him Commit unto the Prison, to be there kept, until he shall answer and pay the said Fine or Forfeiture, with the Charges of Levying the same; And the Warrant directed to the Officer for Levying thereof shall contain in it such a Command: Any Law or Usage to the contrary notwithstanding.

Persons chosen to the Office of Tything-men to be committed, where no Goods can be found to satisfy the Fine.

ACTS

ACTS and LAWS.

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New England*. Begun and Held at *Boston*, the Twenty sixth Day of *May*, 1697.

An Act Relating to Town Rates or Assessments.

WHEREAS divers Constables and Collectors of Town Rates or Assessments are defective and negligent of their Duty in not timely paying of the same as by the Warrants or Estreats, to them committed they are required.

For Redress whereof,

Be it Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That the Constables or Collectors within the several Towns in this Province, who have had, or hereafter shall have any Rates or Assessments for the defraying of Town Charges, orderly made and committed unto them to collect the Accompts and payment whereof are not issued; or that at any time or times hereafter shall not pay in and issue their Accompts thereof with the Treasurer of such Town, or other person appointed by the Select-men to be a Receiver of the same, by the time prefixt in the Warrants to them respectively given for the collecting and paying in thereof, or within the space of one month next after the expiration thereof; every such defective Constable or Collector shall be liable to the Action or Suit of the Treasurer or Receiver of such Town; And such Treasurer or Receiver is hereby Impowred and Authorized to Sue for and recover all such Rates and Assessments or any Arrears thereof, of and from the Constables or Collectors respectively to whom the same were committed, and that have, or shall neglect their Duty in that regard, by Action, Bill, Plaint or Information in any of His Majesties Courts of Record: Any Law, Usage or Custom to the contrary notwithstanding.

Constables or Collectors of Town Rates not issuing their accompts thereof by the time prefixt in their warrants to be liable to Suit.

An Act Impowring Justices of the Peace to decide Differences not exceeding Forty Shillings.

2T3A

BE it Enacted and Ordained by the Lieutenant Governour, Council and Representatives Convened in General Assembly, and it is hereby Enacted and Ordained by the Authority of the same, That all manner of Debts, Trespasses and other matters not exceeding the value of *Forty Shillings* (wherein the Title of Land is not concerned) shall and may be heard, tryed, adjudged and determined by any of His Majesties Justices of the Peace within this Province in their respective Precincts, who are hereby impowred, upon complaint made of any such Debts, Trespass or other matter as aforesaid, to Grant Summons, Capias or Attachment against the Party complained of, directed to the Sheriff or Marshal of the County, or either of their Deputies, or Constables of the Town wherein such party lives; for which Summons, Capias or Attachment,

Justices of the Peace to grant Summons, Capias or Attachment for matters tryable before them.

Tryals before a Justice of the Peace.

97

Attachment, the Justice shall be paid *One Shilling*, and the Officer for Serving the same, *One Shilling* and no more: And in case of Non-appearance upon Summons duly Served being so returned by the Officer, such Justice may issue out a Warrant of Contempt directed to the Sheriff, Marshal or other Officer as aforesaid, to bring the Contemner before him, as well to answer the said Contempt, as the Plaintiffs Action, and may (if he see cause) fine such Contemner, not exceeding *Ten Shillings*, to be accounted for to the Treasurer of the County towards defraying of County Charges: And after Judgment given in any Case, may grant an Execution or Warrant of Distress directed to the Sheriff, Marshal or other Officer as aforesaid, to levy the said Fine, Debt or Damage, with Charges upon the Defendants Goods or Chattels. And such Officer by virtue thereof shall expose the same to Sale, returning the Overplus (if any be) to the Defendant, and for want of such Distress to take the Body of the Defendant, and him to carry and convey to the Common Goal of the County or Precinct, there to remain until he hath satisfied the said Fine, Debt or Damage with Charges. And in case such Complainant be Non Suted, or Judgment pass against him, then the said Justice is hereby Impowred to assess to the Defendant reasonable Costs against such Complainant, to be levied and recovered in manner and form above expressed.

Fee for a Writ and Serving.

Fine for Contempt in not appearing upon Summons.

Writs to be Served seven days before Tryal.

Provided always, That all Summons, Capias or Attachment before such Justice of the Peace, shall be served and executed at least seven days before the time of Tryal or Hearing.

Party aggrieved to appeal to the Inferiour Court.

Provided also, That the party aggrieved shall have liberty to appeal to the next Inferiour Court of Common Pleas to be holden for the same County, he entering into Recognizance with one sufficient Surety in the value of the Debt or Damage sued for, and sufficient to answer all Costs to prosecute the said Appeal there with effect, and to abide the Order of said Court, where such case shall be tryed and receive a final Issue and Determination.

Party appealing to bring the whole case.

And the Party appealing shall bring the Copies of the whole Case to the Court appealed to, where each party shall be allowed the benefit of any further Plea or Evidence; and if upon such new Plea or Evidence the Judgment happen to be reversed, the Appellant shall have no Costs granted for the first Tryal, and such Appellant shall also give in the reasons of his Appeal unto the Justice appealed from, in Writing seven days inclusively before the sitting of the Court appealed to. And all Justices are hereby required to keep fair Records of all their Proceedings from time to time.

Reasons of Appeal to be given in seven days before the Tryal.

And be it further Enacted by the Authority aforesaid, That the Clerk of any Town within this Province, may and hereby is Impowred to grant Replevins, Summons or Attachments for any matter or cause tryable before any Justice of the Peace, and Summons for Witnesses, and to direct the same to the Constables of such Town, or to the party to be Summoned for Witness respectively; and the Constable or Constables are hereby required to execute such Replevins, Summons or Attachments accordingly, and to make due Return thereof.

Clerks of Towns to grant Replevin, &c.

N

ACTS

98 Coynes. Murder. Ravishment. Buggery.

ACTS and LAWS

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*. Begun and Held at *Boston*, the Twenty-sixth Day of *May*, 1697. And continued by several Prorogations until the Thirteenth of *October* following.

An Act for ascertaining the value of Coynes currant within this Province.

WHEREAS for many years past the Money Coynd in the last *Massachusetts Colony*, hath passed currant at the rate of value it was stamp for, and good Sevil Pillar or Adexio pieces of Eight of full *seventeen penny weight*, have also passed currant at Six Shillings per piece, & half pieces of proportionable weight pro rato, quarter pieces of the same Coyn at sixteen pence per piece, and Reals of the same Coyn at Eight pence per piece.

Be it therefore Enacted and Declared by the Lieutenant Governour, Council and Representatives Conbened in General Assembly, and by the Authority of the same, That all and every the Coynes before mentioned, shall still be and continue currant Money within this Province, and shall be accepted taken and received at the respective values aforesaid, according as hath heretofore been accustomed.

Provided always, That such of the said Coynes as pass by tale, be not diminished by Washing, Clipping, Rounding, Filing or Scaling.

An Act against Murder.

BE it Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That whosoever shall commit wilful Murder upon premeditated Malice or Hatred, and be thereof convicted, the person or persons so offending shall be put to Death.

An Act against Ravishment or Rape.

BE it Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That if any man shall Ravish any Woman committing Carnal Copulation with her by Force against her will. Or if any man shall unlawfully and carnally know and abuse any Woman Child under the age of Ten Years, every person and persons offending in either of the cases before mentioned, being thereof convicted, shall be accounted Felons, and shall be adjudged to suffer the pains of Death as in cases of Felony.

An Act for the punishment of Buggery.

FOR avoiding of the detestable and abominable Sin of Buggery with Mankind or Beast, which is contrary to the very Light of nature.

Be it Enacted and Declared by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same. It is Enacted, That the same Offence be adjudged Felony, and such Order and Form of Process therein to be used against the Offenders as in cases of Felony. And that every man being duly convicted of lying with mankind as he lyeth with a Woman. And every man or woman that shall have carnal copulation with any Beast or brut Creature, the Offender and Offenders in either of the cases before-mentioned, shall suffer the pains of Death, and the Beast shall be Slain and Burned.

An

Atheism and Blasphemy.

99

An Act against Atheism and Blasphemy.

BE it Declared and Enacted by the Lieutenant Governour, Council and Representatives Convened in General Court or Assembly, and it is Enacted by the Authority of the same, That if any person shall presume willfully to Blaspheme the Holy Name of God; Father, Son, or Holy Ghost; either by Denying, Cursing, or Reproaching the true God; his Creation, or Government of the World: Or by Denying, Cursing, or Reproaching the Holy Word of God; that is the Canonical Scriptures contained in the Books of the Old and New Testament; Namely, GENESIS, Exodus, Leviticus, Numbers, Deuteronomy, Joshua, Judges, Ruth, Samuel, Kings, Kings, Chronicles, Chronicles, Ezra, Nehemiah, Esther, Job, Psalms, Proverbs, Ecclesiastes, The Song of Solomon, Isaiah, Jeremiah, Lamentations, Ezekiel, Daniel, Hosea, Joel, Amos, Obadiah, Jonah, Micah, Nahum, Habakkuk, Zephaniah, Haggai, Zechariah, Malachi: MATTHEW, Mark, Luke, John, Acts, Romans, Corinthians, Corinthians, Galatians, Ephesians, Philippians, Colossians, Thessalonians, Thessalonians, Timothy, Timothy, Titus, Philemon, Hebrews, James, Peter, Peter, John, John, John, Jude, Revelation: Every one so offending shall be punished by Imprisonment, not exceeding six months, and until they find Sureties for the good Behaviour, by setting in the Pillory, by Whipping, boaring thorow the Tongue, with a red hot Iron, or setting upon the Gallows with a Rope about their neck; at the discretion of the Court of Assize, and General Goal Delivery, before which the Tryal shall be; according to the Circumstances, which may aggravate or alleviate the Offence. *Provided* that not more than two of the fore-mentioned Punishments shall be inflicted for one and the same Fact.

An Act for Registring of Deeds and Conveyances.

FOR the prevention of Clandestine and uncertain Sales of Houses and Lands. And to the intent it may be the better known what rights, title or interest persons have in or to such Estates as they shall offer to Sale.

Be it Enacted and Declared by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That henceforth all Deeds or Conveyances of any Houses or Lands within this Province, Signed and Sealed by the Party or Parties granting the same, having good and lawful right or authority thereto, and acknowledged by such Granter or Granters before a Justice of the Peace, and Recorded at length in the Registry of the County where such Houses or Lands do ly, shall be valid to pass the same without any other Act or Ceremony in the Law whatsoever.

Deeds executed by signing, sealing, acknowledging & Record to be valid.

Registry of Deeds.

No Bargain Sale, &c. made three months next after this Act to be good against any but the grantor, without being acknowledged & Recorded. Proof of a Deed by witnesses, in case to be equivalent to Acknowledgment.

Penalty for persons refusing to acknowledge their Deeds.

Saving for Dower.

How Mortgages shall be discharged

And that from and after three months next after Publication of this Act, no Bargain, Sale, Mortgage or other Conveyance of Houses or Lands made and executed within this Province, shall be good and effectual in Law to hold such Houses or Lands against any other person or persons, but the Grantor or Granters, and their Heirs only, unless the Deed or Deeds thereof be acknowledged and recorded in manner as is before expressed. *Provided* nevertheless that when and so often as it shall happen any Grantor to live in parts beyond Sea, or to be removed out of this Province, or to be dead before any Deed or Conveyance by him or her made, be acknowledged as aforesaid, in every such case, the proof of such Deed or Conveyance made by the Oaths of two of the Witnesses thereto Subscribed, before any Court of Record within this Province, shall be equivalent to the Parties own Acknowledgment thereof.

And be it further Enacted by the Authority aforesaid, That if any Grantor or Vender of any Houses or Lands shall refuse to acknowledge as is aforesaid, any Grant, Bargain, Sale or Mortgage by him or her Signed and Sealed, being thereunto required by the Grantee or Vendee, his, her or their Heirs or Assigns. It shall be lawful for any Justice of the Peace within the County where such Grantor or Vender lives, upon complaint made, to send for the Party to refusing, and if he or she persist in such Refusal, to commit him or her to Prison without Bail or Mainprize, until such Party shall acknowledge the same. It being first made appear and proved to be the Act and Deed of the same Party by the Oath of one or more of the Witnesses thereto Subscribed; and such Grantee or Vendee filing a Copy of his Deed so proved in the Registers Office, shall thereby secure his Title in the mean time, and the same shall be accounted sufficient caution to every other person and persons against purchasing the Estate in such Deed mentioned to be granted.

Provided, That nothing in this Act shall be construed, deemed or extended to bar any Widow of any Vender or Mortgager of Lands or Tenements from her Dower or Right in or to such Lands or Tenements; who did not legally joyn with her Husband in such Sale or Mortgage, or otherwise lawfully bar or exclude her self from such her Dower or Right.

And it is further Enacted by the Authority aforesaid, That any Mortgagee of any Lands or Tenements, his or her Heirs, Executors or Administrators having received full satisfaction and payment of all such Sum and Sums of money as are really due to him by such Mortgage, shall at the request of the Mortgager, his Heirs, Executors or Administrators acknowledge and cause such satisfaction and payment to be Entred in the Margent of the Record of such Mortgage in the Registers Office, and shall sign the same, which shall for ever thereafter discharge, defeat and release such Mortgage, and perpetually bar all Actions to be brought thereupon in any Court of Record. And if such Mortgagee his or her Heirs, Executors or Administrators shall not within ten days next after request in that behalf made, and tender of his, her or their reasonable charges, repair to the Registers Office, and there make and sign such Acknowledgment as aforesaid, or otherwise sign and seal a discharge of the said Mortgage, and release and quit claim to the Estate therein mentioned to be granted, and acknowledge the same before a Justice of Peace; he, she or they so refusing, shall be liable to make good all damages for want of such discharge or Release: to be recovered by Action or Suit in any Court of Record. And in case Judgment pass against the Party so Sued, he, she or they so cast, shall pay unto the adverse party treble costs arising upon such Suit.

And be it further Enacted and Declared by the Authority aforesaid, That the Clerk of the Inferiour Court of Pleas in each respective County shall

Limitation for Possessions.

101

shall also be the Register of Deeds and Conveyances, and shall fairly enter & record at length all Deeds, Conveyances and Mortgages of any Lands, Tenements, Rents or other Hereditaments, lying and being within the same County, made, executed, acknowledged or proved in manner as is aforesaid, which shall be brought to him to Record; and shall on Receipt thereof into the Office note thereupon the day, month and year when he received the same, and the Record shall bear the same date. And every such Register before he execute the said Office, shall be Sworn before one or more of the Justices of such Court, well, truly and faithfully to execute the same. And it shall and may be lawful to and for every Register aforesaid, to ask and receive for entering and recording any Deed, Conveyance or Mortgage, *Twelve pence* for the first page, and *Eight pence* a page for so many pages more as it shall contain, and no more, accounting after the rate of twenty eight lines, of eight words in a line to each page, and proportionably for so much more as shall be under a page, and *Six pence* for his attestation on the Original of the Time, Book and Folio where it is Recorded, and for discharge of a Mortgage as aforesaid, *One Shilling*, and no more.

Clerk of the
Inferiour
Court to be
Register of
Deeds.

to be Sworn.

Registers
Fees.

Deeds Exe-
cuted accor-
ding to for-
mer Laws
and usage
valid.

And be it further Enacted and Declared by the Authority aforesaid, That all Deeds of Bargain, Sale or Mortgage heretofore made and executed, according to former Laws and Usage, shall be valid and effectual.

An Act of Limitation for Quieting of Possessions:

WHEREAS a good and beneficial Act was made by the late Governor and Company of the Colony of the Massachusetts Bay, in the Year of our Lord God, One Thousand Six Hundred Fifty Seven, in the words following. That is to say,

That any person or persons that hath either himself or by his Grantees or Assigns before the Law made for direction about Inheritances, bearing date *October* the Nineteenth, One Thousand Six Hundred Fifty and Two, possessed and occupied as his or their own proper right in Fee simple, any Houses or Lands within this Jurisdiction, and shall so continue, whether in their own persons, their Heirs or Assigns, or by any other person or persons from, by or under them, without disturbance, lett, suit or denial legally made by having the Claim of any person thereto entred with the Recorder of the County where such Houses or Lands do lye, with the names of the persons so claiming, and the quantity, bounds of the Lands or Houses claimed, and such claim prosecuted to effect within the term of five years next after the twentieth of *May*, One Thousand Six Hundred and Fifty Seven. Every such Proprietor, their Heirs and Assigns shall for ever after enjoy the same without any lawful lett, suit, disturbance or denial by any after claim of any person or persons whatsoever, any Law or Custom to the contrary notwithstanding. Which afore-recited Act having by experience been found to be of great benefit and service to His Majesties Subjects within the said Colony, and prevented many contests and Law-suits which otherwise would have arisen by reason of a neglect in many persons to observe a legal course and method for the passing and confirmation of Sales and Alienations.

And whereas sundry persons having a just and equisable Right and Title unto Estates in Housing or Lands, either acquired by purchase or otherwise accruing unto or settled upon them since the passing of the afore-recited Act, may want formal Conveyances and assurances in the Law for the same, or the Deeds, Instruments or other Writings concerning such Estates may be defective or imperfectly made and

Limitation for Possessions.

executed, whereby such persons may be in danger of being deprived and evicted out of their honest and just Rights and Possessions.

For prevention whereof, and for the further quieting of Possessions and Settling of Titles.

Quiet Possession from the first of October 1692 until the first of October 1704. to give a Right.

Saving for the Kings Right.

Other Savings.

Five years time allowed from &c after the ending of the War with the Indians, to lay claim to Lands lying to the Eastward of Piscataqua River, & in other the Frontiers.

Lands purchas'd of Indians without orderly allowance, &c not confirmed by this Act.

Be it Enacted and Declared by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That every person and persons who were possessed in his and their own proper right of any Houses or Lands within this Province upon the first day of October, in the year of our Lord God, One Thousand Six Hundred Ninety Two, and all others deriving from, by or under him or them, continuing the possession of such Houses or Lands until the first day of October, which will be in the year of our Lord God, One Thousand Seven Hundred and Four, without molestation or disturbance by claim made thereto, and action brought and prosecuted for the same with effect, shall by virtue of such possession have, hold and enjoy such Houses or Lands unto him or them, his and their Heirs and Assigns for ever in Fee. And all Actions and Proceks to be thereafter brought for the same, are hereby excluded and for ever debarred.

Provided always, That there shall be a Saving of His Majesties Rights, and all publick Lands belonging to the Province, not orderly disposed of.

Provided also, That this Act shall not be understood to bar the Title of any Infant, Feme Covert, or person *Non Compos mentis*, Imprisoned or in Captivity, who shall be allowed the term of seven years next after such Imperfection removed to pursue their Claim or Challenge to any Houses or Lands, wherein they have Interest or Title: And the like time of seven years shall be allowed to persons having an Estate in reversion in any Houses or Lands, from the time such reversion falls, to recover their Right, and persons beyond Sea shall be allowed the term of ten years from the publication of this Act to pursue their claim or challenge to any Houses or Lands as aforesaid,

And forasmuch as divers Towns and Settlements in the Eastern Parts of this Province have been deserted and broken up by reason of the Rebellion and War made by the Indians, and sundry persons in other the Frontier Towns, particularly Enumerated in an Act of the General Assembly, have by means thereof been driven from their Habitations and Improvements.

Be it therefore further Provided and Declared by the Authority aforesaid, That the Limitation of time for the continuance of Possession by this Act prefixed, shall not extend or be understood to extend unto any Houses or Lands lying to the Eastward of Piscataqua River, or in other the Frontiers, but the same time shall be, and hereby is enlarged and lengthened out for the space of five years next after the ending of the War with the Indians, during which space all persons may pursue their right and claim to any Houses and Lands lying in those parts and places and every of them. And that no person or persons pretending right or title in or to any Lands lying within this Province purchased of any Indian or Indians, without orderly allowance and confirmation thereof had, according to former Laws and Usage of the several late Colonies of Massachusetts and New-Plsmouth, and Province of Maine respectively, shall have or receive any benefit by this Act with reference to such Lands.

F I N I S.

Exportation of Money, &c. Prohibited.

103

An Act

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*. Begun and Held at *Boston*, the *Twenty-sixth* of *May*, 1697. And continued by several Prorogations until the *Fifteenth* of *December* following.

An Act prohibiting the Exportation of Money and Bullion.

UPON Consideration of the scarcity of Money within this Province, and the many difficulties arising thereby not only with respect to Trade and Commerce; but also for carrying on the Publick Affairs of the Government, necessary for His Majesties Service, more especially during the Rebellion and Troubles with the Indians.

Be it Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That no person or persons whatsoever, shall or may Export, Lade, or put on Board any Ship or other Vessel in order to Export out of this Province, any Coyne or Silver Money currant within the same, or Bullion, over and above the Sum of *Five Pounds*, for such persons necessary Expences; on pain that all such Money or Bullion, Ship't or put on Board any Ship or other Vessel for Exportation contrary to the true intent and meaning of this Act, shall be liable to Seizure and become forfeit; and the Shipper to forfeit the like Sum or value over and above.

And if it happen any Money as aforesaid, or Bullion (except to the value above said, for any particular persons own Expence) to be Exported out of this Province before Seizure thereof be made, or carried into any of the Neighbouring Governments, and exported from thence; the person or persons that Ship't or caused such Money or Bullion to be carried out of the Province, Laden or put on Board any Ship or other Vessel, or the person or persons that knowingly carried out or exported the same, being thereof Convicted shall incur the penalty and forfeiture of double the Sum or value of the Money or Bullion so Exported. *Provided* that Information, Suit or Prosecution for the same be had and made within the space of eighteen months next after the Offence committed and not afterward.

The afore mentioned several Forfeitures to be recovered by Action, Bill, Plaint or Information in any of His Majesties Courts of Record within this Province, and to be employed and disposed of, two thirds thereof for and towards the Support of His Majesties Government within the same, and the other third to him or them that shall inform and sue for the same.

And it shall and may be lawful to and for every Justice of the Peace upon Information

Exportation of Money, &c. Prohibited.

Information given of any Money or Bullion put on board any Ship or other Vessel for Exportation or carrying out of the Province to be Exported, by Warrant under his Hand and Seal to cause the same to be Seized and Secured in order to Tryal. And all Officers employed in and about the Customs or Imposts are hereby impowred and required *ex Officio* to cause Seizure to be made as aforesaid.

And be it further Enacted by the Authority aforesaid, That every Master of any Ship or other Vessel before such Ship or Vessel be cleared at the Impost Office, shall make Oath in manner following. *That is to say,*

I A. B. Do Swear, That neither my self nor any of the Company belonging unto the Ship or Vessel whereof I am now Master, nor Passengers going upon the same, have or shall by my knowledge privily or consent, take on Board or Export in the said Ship or Vessel, any Bullion, Coyne or Silver Money current within the Province of the Massachusetts-Bay, over and above the Sum or Value of Five Pounds, for my own or any of my Mariners or Passengers particular Expences. So help me God.

Which Oath the Commissioner for Impost or Receiver are hereby respectively Authorized and Impowred to Administer.

Provided this Act shall remain in force until the end of the Session of the General Assembly to be held upon the last Wednesday in May, which will be in the Year of our Lord, One Thousand Seven Hundred, and not afterwards.

ACTS

Incroachments on High Wayes, &c.

105

ACTS and LAWS

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England*. Begun and Held at *Boston*, the Twenty-fifth Day of *May*, 1698.

An Act to prevent Incroachments upon High-Wayes, Streets, &c.

FORASMUCH as divers Incumbrances and Incroachments have been made in and upon the Common Roads, High wayes and Streets heretofore Laid out in several Towns within this Province.

For Redress whereof,

Be it Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That henceforth no Edifice, Building or Fence whatsoever, shall be Raised, Erected, Built or Set up in, upon or over any of the said Roads, High Ways, Streets, Lanes or Alleys, in any Town within this Province, or any part of any of them, whereby to streighten the passage, or any ways lessen the full breadth of any such Roads, High-Ways, Streets, Lanes or Alleys; and if any Edifice, Building or Fence whatsoever shall be Raised, Erected, Built or Set up, upon, in or over any such Road, High-way, Street or Alley, contrary hereunto, every such Edifice, Building or Fence shall be deemed and held to be a common Nuisance; and the Court of General Sessions of the Peace for the County, in which such Town doth lye, upon complaint, and making out the same before them, are hereby Impowred to order and cause such Edifice, Building or Fence to be taken down, demolished and removed, and also to cause to be removed all such Incroachments, or Incumbrances as heretofore have been made, upon, in or over any common Road, High-way or Street as aforesaid, and the Charge thereof to be answered and paid by disposing of so much of the Materials, as shall be necessary to satisfy the same.

Provided nevertheless, That this Act shall not be intended or construed to intend the prohibiting of the setting up of any Conduit, Watch-house, Cage or Stocks, for publick use in or upon any High-way or Street within any Town.

An Act for Regulating of Tanners, Curriers, and Cordwainers.

FOR the better preventing of Deceits and Abuses by Tanners, Curriers, and Dressers, or Workers up of Leather.

Be it Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That no person or persons whatsoever using or occupying the Feat or Mystery of a Butcher, Currier or Shoe-maker, by himself or any other, shall use or exercise the Feat or Mystery of a Tanner, on pain of the forfeiture

No Butcher, Currier or Shoemaker, to be a Tanner.

Tanners, Curriers, Cordwainers.

No Tanner to use the Trade of Butcher, Currier or Shoemaker.

forfeiture of *Six Shillings* and *Eight-pence* for every Hide or Skin by him or them so Tanned, whilst he or they shall use or occupy any of the Mysteries aforesaid. Nor shall any Tanner during his using the said Trade of Tanning by himself or any other, use or occupy the Feat or Mystery either of Butcher, Currier or Shoe maker, upon pain of the like forfeiture as aforesaid. And no Butcher whatsoever by himself or any other person, shall gash or cut any Hide of Ox, Bull, Steer or Cow in fleaing thereof or otherwise, whereby the same shall be impaired or damaged, on pain of forfeiting *Twelve-pence* for every gash or cut in any such Hide or Skin.

No Tanner to offer or put to Sale any Leather insufficiently Tanned.

And be it further Enacted by the Authority aforesaid, That no person or persons whatsoever using, or which shall use the Mystery or Faculty of Tanning, shall at any time or times hereafter, offer or put to Sale any kind of Leather which shall be insufficiently Tanned, or which hath been over limed, or burnt in the Limes, or which shall not have been after the Tanning thereof, well and thoroughly dried, or that shall not be Sealed as in and by this Act is hereafter directed, upon pain of forfeiting the whole Hide, half Hide or o her piece of such Leather, so offered or put to Sale. And no person or persons whatsoever using, or that shall hereafter use the Mystery or Faculty of Tanning, shall set any of his or their Fatts in Tan hills or other places where the Woozes or Leather put to Tann in the same, shall or may take any unkind heats, nor shall put any Leather into any hot or warm Woozes whatsoever, on pain of forfeiting *Twenty Pounds* for every such Offence.

No unkind heats to be used in Tanning.

No Leather to be Curried that is not Sealed.

And be it further Enacted by the Authority aforesaid, That no person or persons whatsoever, using or occupying; or that shall hereafter use or occupy the Mystery or Faculty of Currying, shall or may Curry any kind of Leather, except it be Sealed as is herein after provided, nor shall curry any Hide being not thoroughly dried after his wet season, in which wet season he shall not use any stale Urine, or any other deceitful or subtil mixture, thing, way or means to corrupt or hurt the same, nor shall curry any Leather meet for outer Soal Leather with any other than good hard Tallow, nor with any less of that than the Leather will receive, nor shall curry any kind of Leather meet for upper Leather and inward Soales, but with good and sufficient stuff, being fresh and not salt, and thoroughly Liquored till it will recive no more, nor shall burn or scald any Hide or Leather in the currying, but shall work the same sufficiently in all points and respects: On pain of forfeiting for every such Offence or Act done contrary to the true intent and meaning hereof, every such Hide marred or hurt by his evil Workmanship or Handling.

Penalty on Curriers for marring or hurting any hide by evil workmanship.

Penalty on Shoe-makers for working up insufficient Leather.

And be it further Enacted by the Authority aforesaid; That no person or persons using or that shall hereafter use or occupy the Mystery or Faculty of a Shoe maker or Cordwainer, shall work up into Shoes, Boots, or other Wares, any Leather that is not Tanned and Curried in manner as aforesaid, nor shall use any Leather made of Horses Hide for the inner Soales of any such Shoes or Boots, on pain of forfeiting all such Shoes, Boots, or other Wares made or wrought up of such insufficient Leather.

And for the more Effectual Execution of this Act.

All Leather to be Sealed before it pass out of the possession of Tanners or Curriers.

Be it Enacted by the Authority aforesaid, That all Leather that is or shall hereafter be Tanned or Curried, shall before the same pass out of the Tanners or Curriers Yard, House or place respectively where it was wrought, be viewed by the Sworn Searchers and Sealers of Leather by Law directed to be annually Chosen in such Towns where there shall be need, who shall have two severall Marks or Seals, to be prepared by each Town for that purpose,

Tanners, Curriers, Cordwainers.

107

pose, with one of which they shall Seal all such Leather as they shall find well and sufficiently Tanned in all respects as aforesaid, and with the other, all such Leather as they shall find well and sufficiently Curried as is before mentioned, and no other. And the said Searchers and Sealers shall, and hereby are Authorized and Impowred *Ex Officio*, to make search and view in any House, Shop, Warehouse or other place within the limits of their respective Precincts where they conceive any Leather to be, whether wrought into Shoes, Boots, or other Wares, or not, as oft as they shall think meet, or as there shall be need. And if the said Searchers and Sealers, or any of them, shall find any Leather sold or offered to be sold, brought or offered to be Searched and Sealed which shall be Tanned, Curried, handled or used contrary to the true intent and meaning of this Act: Or shall find any Leather in whole Sides out of the possession of a Tanner, not being Sealed with the Mark or Seal to be used for Leather only Tanned, or out of the possession of a Currier not being Sealed with the Mark or Seal to be used for Leather when Curried: In every such case it shall and may be lawful for the said Searchers and Sealers, or any of them, to seize all such insufficient or unsealed Leather, whether it be wrought up into Wares or not. And if the Owner or Claimer thereof shall not submit to the Judgment of the Officer or Officers that seized the same, such Officer or Officers shall retain such Leather in his or their Custody, until Tryal thereof be had as is hereafter directed, and Judgment thereon given. And in such case the said Officer or Officers shall within three days next after such Seizure, inform some Justice of the Peace thereof, who shall thereupon appoint four or six men, honest and skillful in Leather, to view the same in the presence of the Owner or Claimer, or without him (if having notice) he does not appear, and to report unto him upon their Oaths the defects which they find in said Leather: Which Report such Justice shall return unto the Court or Justice respectively before whom the Tryal of said Leather shall be. But in case the said Viewers shall report that they do not find such Leather or Wares so Seized in any respect defective according to the intent of this Act, the Justice that appointed such Viewers shall cause the same to be forthwith discharged from the Seizure made by such Officer or Officers.

Sealers *ex Officio* to search and view Leather.

To seize all insufficient or unsealed Leather.

Tryors to be appointed.

And be it further Enacted by the Authority aforesaid, That no person or persons whatsoever shall or may withstand or resist the Searchers and Sealers in the due Execution of their Office, nor in the Seizing of any insufficient Leather or Wares, on pain of forfeiting the Sum of Five Pounds for every such Offence. And the Fee for Searching and Sealing of Leather shall be One Penny Per Hide for any parcel less than five, and for all other parcels, after the rate of Six pence per Dickar; which Fee the Tanner and Currier respectively shall pay upon Sealing of the said Leather from time to time; and shall also pay Three pence per Mile for every Mile any Sealer or Searcher shall travel above one, for which he is not to be allowed any thing.

Penalty for resisting the Searchers.

Fee for Sealing.

And no Sealer or Searcher of Leather shall refuse within convenient time to do his Office, or shall allow any Leather or Wares which are not sufficient, on pain of forfeiting Forty Shillings, nor shall take any bribe, or exact more than his due Fees, on pain of forfeiting the Sum of Ten Pounds for every such Offence.

Penalty on Sealers for neglect of Duty.

And be it further Enacted by the Authority aforesaid, That all Fines and Penalties and Forfeitures that shall arise and grow due by virtue of this Act or any Clause therein contained, shall accrue and be disposed of in manner following, viz. one third part thereof to the Treasurer of the County where the Offence is committed, for the defraying of County Charges, one third part thereof to the Treasurer or Select-men of the Town where the Offender inhabiteth, to the use of the Poor of such Town, and the other third

Fines and Forfeitures how to be disposed.

Form of the Writ for calling an Assembly.

part to the Seizer or Seizers of such insufficient Leather, or to him or them that shall inform and sue for the said Fines, Penalties or Forfeitures to be recovered by Action, Bill, Plaint or Information in any Inferiour Court of Common Pleas, or before any Justice of Peace, when the matter doth not exceed the value of *Forty Shillings*.

Curriers liable to make good the value of all Leather seized for ill workmanship.

And be it further Enacted by the Authority aforesaid, That when and so often as any Leather belonging to any Tanner or other person shall be Seized and become forfeit for any defect of the Currier in his Workmanship about or handling of the same, such Currier shall be liable to make good unto the Tanner or other Owner of such Leather so seized and forfeited, the full value thereof, with his just costs and damages, to be recovered by Action to be therefore brought against such Currier in any Inferiour Court of Common Pleas, or before any Justice of Peace, if the value exceed not *Forty Shillings*: For the better ascertaining of which value, the persons to be appointed as aforesaid for viewing the defects in Leather, shall (when the same is seized for being marred or spoiled by the Currier) through his ill Workmanship or handling, be also appointed to estimate and judge the value thereof, and make report of the same together with the defects.

An Act for Establishing the Form of the Writ and Precept, for calling a Great and General Court or Assembly.

BE it Enacted and Ordained by the Lieutenant Governour, Council and Representatives, Convened in General Assembly, and it is hereby Enacted and Ordained by the Authority of the same, That the Writ to be at any time hereafter issued by the Governour or Commander in Chief of this Province, for calling a Great and General Court or Assembly, as also the Precept to be issued by the Sheriff or Marshal in Observance thereof, to the Select men of the several Towns, and their Return thereupon (when any person or persons shall be chosen to represent them in said Court) shall be in the Forms following. *That is to say,*
WILLIAM the Third by the Grace of GOD, of England, Scotland, France and Ireland, KING, Defender of the Faith, &c.

Writ for calling a Great and General Court or Assembly.

To Our Sheriff or Marshal of Our County of S. within Our Province of the *Massachusetts Bay* in *New England*. Greeting.

We Command, That upon Receipt hereof, You forthwith make out your Precepts, directed unto the Select men of each respective Town within your Precinct, Requiring them to cause the Freeholders, and other Inhabitants of their several Towns, duly qualified as in and by our Royal Charter is directed, to Assemble at such time and place as they shall appoint, to elect and depute one or more persons (being Freeholders and Resident in the same Town) according to the number set and limited, by an Act of the Great and General Court or Assembly of our aforesaid Province, to Serve for and Represent them respectively in a Great and General Court or Assembly by Us appointed to be Convened, Held and Kept for our Service: At the *Town House* in *Boston*, upon the day of next ensuing the Date of these presents, and to cause the person or persons so Elected and Deputed by the major part of the Electors present at such Election, to be timely notified and summoned by the Constable or Constables of such Town, to attend our Service in the said Great and General Court or Assembly, on the day above prefixed by nine in the morning, &c. so *de Die in Diem*, during

Form of the Writ for calling an Assembly. 109

during their Session and Sessions, and to return the said Precepts with the names of the person or persons so Elected and Deputed unto your self, whereof you are to make Return together with this Writ, and of your doings therein under your hand, into our Secretaries Office at *Boston*, one day at the least before the said Courts sitting. Hereof you may not fail at your Peril. Witnes and Commander in Chief, in and over our Province of the *Massachusetts-Bay* aforesaid. Given at *Boston* under the Publick Seal of our said Province the day of In the Year of our Reign. *Annoque Domini*

By Command of
J. A. Secr.

Suffolk II.

I N Observance of His Majesties Writ to me directed. These are in His Majesties Name to Will and Require you forthwith to cause the Freeholders and other Inhabitants of your Town that have an Estate of Freehold in Land within this Province or Territory, of *Forty Shillings Per Annum* at the least, or other Estate, to the value of *Fifty Pounds Sterling*, to assemble at such time and place as you shall appoint, then and there to Elect and Depute one or more persons (being Freeholders and resident in the same Town) according to the number set and limited by an Act of the General Assembly, to Serve for and Represent them in a Great and General Court or Assembly, appointed to be Convened, Held and Kept for His Majesties Service at the *Town-House* in *Boston*, upon the day of next ensuing the Date hereof, and to cause the person or persons so Elected and Deputed by the major part of the Electors present at such Election, to be timely notified and summoned by one or more of the Constables of your Town, to attend His Majesties Service in the said Great and General Court or Assembly, on the day above prefixed, by nine in the morning, and so *De Die in Diem* during their Session and Sessions. Hereof fail not, and make Return of this Precept with the names of the person or persons so Elected and Deputed with their being Summoned, unto my self dayes at the least before the said day of next. Given under my Hand and Seal at B. the day of in the Year of His Majesties Reign. *Annoque Domini. A. B.*

Precept to the Select-men for choice of Representatives.

of the County of Suffolk.

To the Select men of the Town of
B. in the County above-said. Greeting.

P Urstant to the Precept within Written, the Freeholders and other Inhabitants of the Town of B. qualified as is therein directed, upon due warning given, assembled and met together the day of and indorsed on then did Elect and Depute to Serve for and Represent them in the Precept, the Session and Sessions of the Great and General Court or Assembly appointed to be convened, held and kept for His Majesties Service at the *Town-House* in *Boston*, upon the day of the said person being Chosen by the major part of the Electors present at said Meeting. Dated in B. aforesaid the day of *Anno Domini*

A. B. }
C. D. } Select men
E. F. } of B.

The person Chosen as
abovesaid, notified thereof
and Summoned to attend accordingly
by me A. B. Constable of B.

Forms of Writs and Processes.

An Act for the Establishing of Precedents
and Forms of Writs and Processes in
Civil Causes.

BE it Enacted and Ordained by the Lieutenant Governour, Council and Representatives, Convened in General Assembly and it is hereby Enacted and Ordained by the Authority of the same, That the several Forms of Writs and Processes in Civil Causes here under-written, be, and hereby are Established to be the Forms which the respective Officers that are or shall be appointed to grant the same, shall observe and use.

That is to say,

Summons for
Appearance
before a
Justice of
Peace.

Essex ff. **T**O the Sheriff or Marshal of the said County of E. or either of their Deputies or Constables of the Town of S. within the said County, or to any or either of them, *Greeting.*

In His Majesties Name you are Required to Summon and give notice unto T. P. of S. aforesaid, *addition* (if he may be found in your Precincts) that he appear before me J. H. Esqr. one of His Majesties Justices of the Peace for the County aforesaid, at my Dwelling-House in S. on the day of at of the Clock in the noon, then and there to answer to E. L. of M. *addition* in an Action or plea of which is to the damage of the said E. L. the Sum of *Sbillings,* as shall then and there appear, with other due damages. You are also hereby further required to signify unto the said T. P. That he may not fail in the premises as he will answer the Contempt at the peril of the Law in this Case made and provided; and of this Writ with your doings therein, you are to make true Return unto my self at or before the said day of

Dated at S. the day of In the
Year of His Majesties Reign. *Annoque Domini*

J. H.

Warrant for
Contempt.

Essex ff. **T**O the Sheriff or Marshal of the said County of E. or either of their Deputies, or Constables of the Town of S. within the said County, or to any or either of them. *Greeting.*

Whereas T. P. of S. *addition* was Served with Summons granted by me J. H. Esqr. one of His Majesties Justices of the Peace for the County aforesaid, for his appearance before me, on the day of to answer E. L. of M. *addition*

in an action or plea of And whereas the said T. P. hath made default in his said appearance. These are therefore in His Majesties Name to will and require you to take the Body of the said T. P. (if he may be found in your Precincts) and him safely keep, so that he may be had before me, the said J. H. at my Dwelling-House in S. on the day of at of the Clock in the noon, as well to answer the said E. L. of his plea aforesaid, as for his said Contempt, and make true Return of this Writ with your doings therein, unto my self at or before the said day of

Dated at S. the day of In the Year of
His Majesties Reign. *Annoque Domini.*

J. H.

To

Forms of Writs and Processes.

111

Essex ff. **T**O the Sheriff or Marshal of the said County of E. or either of their Deputies or Constables of the Town of S. within the said County or to any or either of them. *Greeting.*

before a Justice of Peace.

In His Majesties Name you are required to attach the Goods or Estate of T. P. of S. *addition* to the value of *Shillings* and for want thereof to take the Body of the said T. P. (if he may be found in your Precinct) and him safely keep, so that he may be had before me J. H. Esqr. one of His Majesties Justices of the Peace for the County aforesaid, at my Dwelling-House in S. on the day of at of the Clock in the noon, then and there to answer to E. L. of M *addition* in an Action or plea of

which is to the damage of the said E. L. the Sum of *Shillings* as shall then and there appear with other due damages. Hereof fail not, and make due return of this Writ with your doings therein unto my self at or before the said day of Dated at S. the day of In the Year of His Majesties Reign. *Annoque Domini* J. H.

Essex ff. **W**ILLIAM the Third by the Grace of GOD of England, Scotland, France and Ireland, KING, Defender of the Faith, &c. To the Sheriff or Marshal of our said County of E. or either of their Deputies, or Constables of the Town of S. within our said County, or to any or either of them. *Greeting.* Whereas E. L. of M. *addition* on the day of before J. H. Esqr. one of our Justices of the Peace for our County aforesaid, recovered Judgment against T. P. of S. *addition* for the Sum of *Shillings*

Execution granted by a Justice of Peace.

Debt or Damage, and *Shillings* and *pence* for Charges of Suit as to us appears of Record, whereof Execution remains to be done. We Command you therefore, That of the Money of the said T. P. or of his Goods or Chattels within your Precinct, at the value thereof in money you cause to be levied, paid and satisfied unto the said E. L. the aforesaid Sums being *Pounds* *Shillings* and *pence* in the whole, and also that out of the said Money, Goods or Chattels, you levy *Two Shillings* more for this Writ, together with your own Fees; and for want of such Money, Goods or Chattels of the said T. P.'s, to be by him shewn unto you, or found within your Precinct to the acceptance of the said E. L. for satisfying the aforesaid Sums: We Command you to take the Body of the said T. P. and him Commit unto the Keeper of our Goal in S. in our County aforesaid within the said Prison: Whom we likewise Command to receive the said T. P. and him safely keep, until he pay unto the said E. L. the full Sums above mentioned, and be by him released, and also satisfy your Fees. Hereof fail not, and make due return of this Writ with your doings therein unto our said Justice within Sixty Dayes next coming. Witness our said Justice at S. the day of In the Year of our Reign. *Annoque Domini* J. H.

Suffolk ff. **W**ILLIAM the Third by the Grace of GOD of England, Scotland, France and Ireland, KING, Defender of the Faith, &c.

To the Sheriff or Marshal of our said County of S. his Under-Sheriff or Deputy. *Greeting.* We Command you to attach the Goods or Estate of D. T. of B. *addition* to the value of *Pounds* and for want thereof to take the Body of the said D. T. (if he may be found in your Precinct) and him safely keep, so that you have him before our Justices at our next Court of to be holden at B within or for our County aforesaid, on the *Tuesday* of then and there to answer unto C. L. of R *addition* in an Action of which is to the damage of the said C. L. the Sum of *Pounds*, as shall then

Attachment to the Superior or Inferiour Court respectively.

Forms of Writs and Processes.

then and there appear with other due damages: And have you there this Writ with your doings therein. Witness E. H. Esqr. at B. the day of In the Year of our Reign. *Annoque Domini* J. W. Clerk.

Summons to the party whose goods are Attached.

Suffolk ff **W**ILLIAM the Third by the Grace of GOD, of *England, Scotland, France and Ireland*, KING, Defender of the Faith, &c. To D. T. of B *addition* Greeting. We Command you, That you appear at our Court of to be holden at B. within or for our County of S. aforesaid, on the *Tuesday* of to answer unto C. L. of R *addition* in an Action of which Action the said C. L. hath commenced, to be heard and determined at the said Court: To respond which your Goods or Estate are attached to the value of *Pounds*, the damage laid in the said Action being *Pounds*. Hereof fail not at your peril. Witness E. H. Esqr. at B. the day of In the Year of our Reign. *Annoque Domini* J. W. Clerk.

Execution out of the Superiour or Inferiour Court respectively.

Suffolk ff **W**ILLIAM the Third, by the Grace of GOD, of *England, Scotland, France and Ireland*, KING, Defender of the Faith, &c. To the Sheriff or Marshal of our said County of S. his Under Sheriff or Deputy. Greeting. Whereas C. L. of R *addition* recovered Judgment against D. T. of B *addition* before our Justices of our Court of holden for or within our County aforesaid, on the *Tuesday* of for the Sum of *Pounds* Debt or Damage, and *Pence* *Shillings* and *Pence* Costs of Suit, as to us appears of Record, whereof Execution remains to be done. We Command you therefore, That of the Goods, Chattels or Lands of the said D. T. within your Precinct, you cause to be paid and satisfied unto the said C. L. at the value thereof in money, the aforesaid Sums, being *Pounds* *Shillings* and *Pence* in the whole, with *Two Shillings* more for this Writ, and thereof also to satisfy your self for your own Fees. And for want of such Goods, Chattels or Lands of the said D. T.'s to be by him shewn unto you, or found within your Precinct to the acceptance of the said C. L. to satisfy the aforesaid Sums, We Command you to take the Body of the said D. T. and him Commit unto the Keeper of our Goal in B. in our County aforesaid within the said Prison, whom we likewise Command to receive the said D. T. and him safely to keep, until he pay unto the said C. L. the full Sums above mentioned, and be by him released, and also satisfy your Fees. Hereof fail not, and make Return of this Writ with your doings therein unto our said Court of to be holden at B. upon the *Tuesday* of next. Witness E. H. Esqr. at B. the day of In the Year of our Reign. *Annoque Domini* J. W. Clerk.

Suffolk ff **W**ILLIAM the Third, by the Grace of GOD, of *England, Scotland, France and Ireland*, KING, Defender of the Faith, &c. To the Sheriff or Marshal of our said County of S. his Under Sheriff or Deputy. Greeting. Whereas A. B. of C. *addition* before our Justices of our Court of holden for or within our County aforesaid, at B. upon the *Tuesday* in by the *Fieri Facias* Consideration of our said Court, recovered Judgment for his Title and possession of and in a certain Messuage or Tenement with the appurtenances, or acres of Land, &c. *addition* who had unjustly put out and removed the said A. B. from his possession thereof; and also at the said Court recovered Judgment for *Pounds* *Shillings* and *Pence* *Writ of Facias haberi possessionem, and Writ of Fieri Facias for damages and costs out of the Superiour or Inferiour Court respectively.*

Forms of Writs and Processes.

113

Pence for Costs and Damages which he has sustained by reason of the said offence and ejection, and expended for the removal thereof, as to Us hath been made to appear of Record. We Command you therefore, that without delay you cause the said *A. B.* to have possession of and in the said Messuage or Tenement with the appurtenances of said *acres of Land, &c.* We also Command you, That of the Goods, Chattels or Lands of the said *E. F.*'s. within your Precinct, at the value thereof in money, you cause the said *A. B.* to be paid and satisfied the aforesaid Sum of *Pounds* *Shillings* and *Pence*, which to the said *A. B.* was adjudged for his Costs and Damages, with *Two Shillings* more for this Writ, and thereof also to satisfy yourself for your own Fees. And for want of such Goods, Chattels or Lands of the said *E. F.* to be by him shewn unto you, or found within your Precinct to satisfy the aforesaid Sum. We then Command you to take the Body of, the said *E. F.* and him commit to the Keeper of our Goal in *B.* in our County aforesaid, within the said Prison: Whom We likewise Command to receive him the said *E. F.* and him safely to keep, until he pay unto the said *A. B.* the full Sum above mentioned, and be by him released, and also satisfy your Fees. Hereof fail not, and make Return of this Writ, with your doings therein unto our said *Court of* to be holden at *B.* upon the *Tuesday* in *next.* Witness *T. D. Esqr.* at *B.* the *day of* In the *Year of our Reign.* *Annoque Domini* *A. D. Clerk.*

Suffolk ff **W**ILLIAM the Third, by the Grace of GOD, of England, Scotland, France and Ireland, KING, Defender of the Faith, Writ of *seire facias* out of the Superior or Inferiour Court respectively, *&c.* To the Sheriff or Marshal of Our said County of *S.* his Under Sheriff or Deputy. *Greeting.* Whereas *C. D.* of *B.* *addition* before the Superior or Inferiour Court respectively, our Justices of our *Court of* holden for or within our said County of *S.* at *B.* on the *Tuesday* of In the *Year of* our Reign. By the consideration of our said Justices recovered against *A. B.* of *E.* *addition* the Sum of *Pounds* *Shillings* and *Pence*, Debt or Damage, and also *Pounds* *Shillings* and *Pence*, for Costs and Charges by him about his Suit in that behalf expended, whereof the said *A. B.* is convict as to Us appears of Record, and although the Judgment be thereof redred, yet the Execution of the said Debt and Costs doth yet remain to be made, whereof the said *C. D.* hath supplicated Us to provide remedy for him in that behalf. Now to the end that Justice be done. We Command you, That by honest and lawful men of your Precinct, you make known to the said *A. B.* that he be before our Justices of our said *Court of* to be holden within or for our said County of *S.* at *B.* on the *Tuesday* of to shew cause (if any he have) wherefore the said *C. D.* ought not to have his Execution against him of the Debt and Costs aforesaid, and further to do and receive that which our said Court shall then consider, and have there then the names of them by whom to him you shall make known the same and this Writ. Witness *E. H. Esqr.* at *B.* the *day of* In the *Year of our Reign.* *Annoque Domini*

J. W. Clerks

Suffolk ff **W**ILLIAM the Third, by the Grace of GOD, of England, Scotland, France and Ireland, KING, Defender of the Faith, *&c.* To the Sheriff or Marshal of our said County of *S.* his Under-Sheriff or Deputy. *Greeting.* We Command you to attach the Goods or Estate of *I. M.* of *H.* *addition* to the value of *Pounds* : Attachment to Review at the Superior or Inferiour Court respectively. And for want thereof to take the Body of the said *I. M.* (if he may be found within your Precinct) & him safely keep, so that you have him before our Justices at our next *Court of* to be holden at *B.* for our County *P*

Forms of Writs and Processes.

County aforesaid, on the *Tuesday* of then and there to answer unto L. K. of R. *addition* on review of an Action or Suit commenced and Tryed by the said I. M. against the said L. K. Defendant at the Court of holden at B. aforesaid, on the *Tuesday* of where Judgment was rendred for the said I. M. to recover of the said L. K. and costs of Suit, which Judgment the said L. K. saith is wrong & ertionious, and that he is thereby damnified the Sum of Pounds, as shall then and there be made to appear: For the Reverfing whereof and recovering back the said granted to the said I. M. by the Judgment aforesaid; he the said L. K. bringeth this Suit, as also for his cost and damage occasioned thereby. And have you there this Writ with your doings therein. Witness T D. Esqr. at B. the day of In the Year of our Reign. *Annoque Domini* A. D. Clerk.

Suffolk ff. To A. B. of C. Greeting.

Summons
for Witnesses
to give Evi-
dence.

YOn are hereby required in His Majesties Name to make your apperance before His Majesties Justices of the next Court of to be holden within or for the said County of S. at B. upon the *Tuesday* of to give Evidence of what you know relating to a Plea or Action of then and there to be heard and tryed betwixt A. B. of C. *addition* Plaintiff, and D. E. of F. *addition* Defendant. Hereof fail not, as you will answer your Default under the pains and penalty of the Law in that behalf made and provided. Dated in B. the day of In the Year of His Majesties Reign. *Annoque Domini*

J. W. Clerk.

Replevin.

Suffolk ff. TTo the Sheriff or Marshal of the said County of S. his Under-Sheriff or Deputy or Constables of the Town of B. within the said County, or to any or either of them. Greeting.
In His Majesties Name you are Required to Replevin belonging unto T. P. of B. *addition* now distreined or impounded by J. G. of B. *addition* and deliver the said unto the said T. P. provided he give Bond to the value of Pounds, with sufficient Surety or Sureties to prosecute his Replevin at the next Inferiour Court of Common Pleas to be Holden for the County aforesaid, at B. on the *Tuesday* of and so from Court to Court, until the Cause be ended, and to pay such Colls and Damages as the said J. G. shall recover against him. Hereof fail not, and make true Return of this Writ with your doings therein unto the said Court. Dated in B. the day of In the Year of His Majesties Reign. *Annoque Domini*

J. W. Clerk.

The like Form of a Replevin to be observed for matters cognizeable before a Justice of Peace, *Mutatis mutandis*.

Suffolk ff. WWillIAM the Third, by the Grace of GOD, of England, Scotland, France and Ireland, KING, Defender of the Faith, &c. To A. B. Esqr. Greeting. Whereas in the Record and Process, and also in giving Judgment of a Suit which was before you, and other Writ of our Justices of our Inferiour Court of Common Pleas holden at B. within Error: or for our said County of S. on the *Tuesday* of between C. D. of E. *addition* Plaintiff, and F. G. of H. *addition* Defendant, in an Action of Error manifest doth appear to have intervened to the grievous damage of the said F. G. as of his Complaint, We have received: We therefore being willing that Error,

Forms of Writs and Proseses

115

Error, (if any there be in this behalf) in due manner be corrected, and that speedy Justice according to Law to the said F. G. be therein done, as it becometh Us, Command you, That the Judgment in the Suit aforesaid, and Execution thereupon issued (if any be) together with the whole Record and Proses of the said Suit, and all things touching the same in any manner, you have before our Justices of our Superiour Court of Judicature, to be holden at B. for or within our said County of S. on the *Tuesday* of under your Seal: So that our said Justices of our said Superiour Court may then and there have them, and the Proses and Record aforesaid, & also may (after the same are by them inspected) therein further do what of right ought to be done: And if Execution of the Judgment aforesaid be not made out before the receiving of this Writ, that then as well from granting thereof as from further taking, imprisoning, or in any thing molesting the said F. G. on the occasion aforesaid, until the Plea upon this Writ of Error to be corrected, depending undiscussed, be fully determined, you altogether cease and supersede. Hereof fail not, and have then and there also this Writ with your doings. Witness T. D. Esqr. at B. the day of In the Year of our Reign. *Annoque Domini*

A. D. Clerk.

Suffolk ff **W**ILLIAM the Third, by the Grace of GOD, of England, Scotland, France and Ireland, KING, Defender of the Faith, &c. To the Sheriff or Marshal of our said County of S. his Under Sheriff or Deputy. *Greeting.* Whereas C. D. of E. *addition* before *Superfedeas* our Justices of our Inferiour Court of Common Pleas holden at B. within where Execution is or for our said County of S. on the *Tuesday* of recovered granted before the taking out a Judgment against F. G. of H. *addition* for Pounds Writ of Error, *Shillings* Debt or Damage, and *Shillings* for Costs as to Us appears of Record. And whereas from the grievous Complaint of the said F. G. We have received that in the Record and Proses and in rendring of Judgment in the Suit aforesaid, Error manifest hath intervened to the grievous damage of the said F. G. and We being willing that Error therein (if any be) in due manner be corrected, and that to the said F. G. full and speedy Justice in this behalf be done, have by Our Writ commanded A. B. Esqr. Justice of Our said Inferiour Court of Pleas: That the Judgment in the Suit aforesaid, and Execution thereupon issued (if any be) together with the whole Record and Proses of the said Suit, and all things touching the same in any manner, he have before Our Justices of Our Superiour Court of Judicature, to be holden at B. for or within Our said County of S. on the *Tuesday* of under his Seal, that the Justices of Our said Superiour Court (after inspecting the Record and Proses aforesaid) may therein further do what of right ought to be done. But forasmuch as the Record and Proses aforesaid, with all things touching the same, cannot be returned until the Sitting of the said Superiour Court on the *Tuesday* of aforesaid, and so Error therein (if any be) in the mean time cannot be discussed. We therefore Command you, That if Execution be issued upon or by occasion of the Judgment aforesaid you cease and supersede the levying of the same on the said F. G. or on any of his Goods, Chattels, Lands or Tenements whatsoever, until the Plea upon Our Writ of Error to be corrected, depending undiscussed, be fully determined. Hereof you may not fail, and have with you this Writ with your doings therein at the Superiour Court aforesaid. Witness T. D. Esqr. at B. the day of In the Year of Our Reign. *Annoque Domini*

A. D. Clerk.

Forms of Writs and Processes.

To the Constables of the Town of B. in
the County of S. Greeting.

A Warrant
for Collect-
ing of Town
Assessments.

IN His Majesties Name you are Required forthwith to Levy and Collect of the persons named in the List herewith committed unto you, each one his several proportion (as therein set down) of the Sum total of such List, being a Tax or Assessment granted and agreed upon by the Inhabitants of the said Town of B. regularly assembled, for defreying of the necessary Charges arising within the same.

And to deliver and pay in the Sum and Sums which you shall so Levy and Collect unto A. B. Treasurer of the said Town (where any such is appointed) or to the Select-men, or to C. D. (being by them appointed to receive the same) at on or before the day of

And if any person or persons shall neglect or refuse to make payment of the Sum or Sums whereat he or they are respectively assessed and set in the said List, to distress the Goods or Chattels of such person or persons to the value thereof, at an equal and indifferent Apprizement, returning the Overplus (if any be) unto the Owner or Owners. And for want of Goods or Chattels whereon to make distress, you are to Seiz the Body or Bodies of the person or persons so refusing, and him or them to Commit unto the Common Goal of the said County, there to remain until he or they pay and satisfy the several Sum or Sums assessed upon him or them as aforesaid, unless the same or any part thereof upon application made unto the Quarter or General Sessions of the Peace shall be abated. Dated at B. the day of In the Year of His Majesties Reign. *Annoque Domini*

And the like Form of a Warrant shall be used for the Collecting of County Rates or Assessments, *Mutatis mutandis*.

Copy of the
Warrant to
be left with
the keeper
when any
persons are
imprisoned
by virtue
thereof.

And be it further Enacted, That when the Officer appointed for Collecting any Rates by virtue of such Warrant as aforesaid, shall Seiz the Body of any person or persons for want of Goods or Chattels whereon to make distress, and shall commit him or them to Prison. A Copy of said Warrant with the Sum or Sums such person or persons are to pay, Sign'd by the said Officer, shall be a sufficient Warrant for the Goaler to receive and hold such person or persons, until he or they shall pay the said Rate, and his or their Charges of Imprisonment, with *One Shilling* for the Copy of said Warrant.

Proceedings
upon a Writ
of Error.

And be it further Enacted by the Authority aforesaid, That every person bringing a Writ of Error for the removal of any Cause out of the Inferiour Court of Common Pleas for another hearing and Tryal in the Superiour Court of Judicature, shall assign the Errors in the proceedings and Judgment given in the Inferiour Court, in writing under his own or Attorneys Hand, and file the same in the Clerks Office of such Inferiour Court, fourteen days inclusive before the Sitting of the Superiour Court, at which the Cause is to be heard, to the intent the adverse party may have a Copy thereof (if desired) And shall also cause him to be notified of the said Writ of Error, and Served with Summons out of the Clerks Office of the Superiour Court, by the like space of fourteen days to appear and defend the said Suit : And the party taking out such Writ of Error, shall at his own Cost and Charge cause the Record and Process of the Cause in the Inferiour Court, and all the proceedings thereon, together with the Errors assigned therein, to be Certified unto the Superiour Court of Judicature ; which cost and charge shall be repaid by the Defendant if upon such Tryal the Judgment given in the Inferiour Court be reversed.

And

Pounds.

117

And it is further Declared and Enacted, That where any Execution shall be returned satisfied in part only, the Officer who granted the same may *Ex Officio* renew or make out an *alias* Execution for the Remainder; Provided it be done within the space of twelve months next after Judgment given, without a *Scire Facias* being Sued forth by the party that recovered the Judgment.

Clerks of Courts to grant an *alias* Execution *ex Officio*, upon return of the former Execution being satisfied in part only. Costs to be allowed against persons discontinuing their Suit or becoming non-suit. Writs out of the Superiour Court to bear the test of the chief Justice. Writs out of the Inferiour Court to bear the test of the first Justice named in the Commission.

And be it further Enacted by the Authority aforesaid, That whosoever shall cause Process to be Served upon any person or persons on pretence of Debt, Trespass or other matter or cause, and discontinue his or their Suit, or be Non-Suited, the person or persons on whom Process shall be so Served, making it appear to the Justices of the Court where such Process is returnable, shall be allowed his or their reasonable Costs and Charges.

And all Writs, as well Original as Judicial issuing out of the Clerks Office of the Superiour Court of Judicature shall bear the Test of the Chief Justice, and upon any vacancy of such Chief Justice, then of the Senior Justice of the said Court for the time being. And all Writs as well Original as Judicial issuing out of the Clerks Office of the several Inferiour Courts of Common Pleas, shall bear the Test of the first Justice named in the Commission for holding of said Court; And upon any vacancy by his death or removal then of the next Justice in such Commission named for the time being.

Any Law, Usage or Custom to the contrary of any thing herein before contained notwithstanding.

An Act for providing of Pounds, and to prevent Rescous and Pound breach.

BE it Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That there shall be a sufficient Pound or Pounds made and maintained from time to time in every Town and Precinct within this Province, in such part or places thereof, as the Select men shall direct and appoint, at the cost and charge of such Town or Precinct, for the impounding and restraining of all Swine, Cattle or Sheep, liable to be impounded or restrained, for any of the causes herein after mentioned.

Each Town to maintain a sufficient Pound.

And that it shall and may be lawful to and for any other person or persons as well as the Hawards or Field drivers, to take up, and impound or cause to be impounded, any Swine, Neat Cattle, Horses or Sheep, as shall be found damage feasant in any Corn-field, or other inclosure; or Swine found unyoked or unringed; Neat Cattle, Horses or Sheep going upon the Common, not allowed to feed there by the major part of the Propriety, who are impowred to permit the same; any Law to the contrary notwithstanding. And the Owners or Claimers of any such Creatures impounded as aforesaid, shall pay the Fees set in and by an Act Entituled, *An Act, For Regulating of Fences, Cattle, &c.* unto the Pound keeper, before they be delivered out of Pound, as also the Fee to the party impounding and damage to the party injured, unless such Owner or Claimer shall think fit to Replevin his Creatures impounded, and give sufficient Bond with one or more Sureties to prosecute his Replevin with effect in Law, either before a Justice of the Peace, within fifteen days inclusive from the date of such Replevin, or at the next Inferiour Court of Common Pleas to be holden within the same County, according to the value of the damages alledged to be suffered, and to pay all such costs and damages as shall be awarded against him.

For what causes Cattle &c. to be impounded;

The Owner of Creatures impounded, to be notified thereof (if known) if not the Creatures to be cryed & posted up.

Fee for crying.

after three days to be proceeded with as strays.

Penalty for a Rescous.

Penalty for pound breach.

Committed by Apprentices or persons under age, how to be punished.

Trespass done in common or general Fields.

The Owner of defective Fence to make good damages.

And every person impounding any Swine, Neat Cattle, Horses or Sheep, shall give present notice thereof unto the Owner, if known, or leave a Notification thereof in writing at his house or place of usual abode, or if unknown, shall cause the same to be publicly cryed, or posted up in some publick place in such Town, and in the two next Neighbouring Towns, from whence it may be most likely such Creatures came. And shall also cause the Creatures so impounded, to be relieved with suitable meat and water, the charge whereof shall be paid by the Owner or Owners, as also of the crying of them after the rate of *Three pence Per Head*, for a number not exceeding Twelve, and no more than *Three Shillings* for a greater number. And if no Owner or Claimer appear within the space of three days next after the impounding of any such Creatures, then the person or persons so restraining of them shall proceed with them as the Law provides respecting Strays.

And be it further Enacted by the Authority aforesaid, That if any person or persons shall Rescue any Swine, Neat Cattle, Horses or Sheep taken up as aforesaid, out of the hands of the Haward or other person being about to drive them to the Pound, whereby the party injured may be liable to lose his damages, and the Law be eluded, the party so offending, shall for such Rescous, forfeit and pay the Sum of *Forty Shillings* to the use of the poor of the Town or Precinct where the Offence is committed; besides all just damages unto the party injured, to be recovered by Action, Bill, Plaint or Information in any of His Majesties Courts of Record. And if any person or persons shall make any Pound breach, or by any other indirect ways or means howsoever, convey or deliver any Creatures impounded out of the Pound, the party so offending being duly convicted thereof, shall forfeit and pay the Sum of *Five Pounds* to the use of the Poor of the Town or Precinct where the Offence is committed, as also all just damages to the party injured by such Creatures to be had and recovered in manner as aforesaid. And if such Rescous Pound breach or conveying of Creatures out of the Pound happen to be committed by any Apprentices or persons under Age, not having of their own wherewith to satisfy the Law, and their Parents or Masters refuse to pay the Fine and Damages which the Law in such case does inflict. It shall and may be lawful to and for the Justices before whom such Action or Plaint shall be depending, upon a due conviction of the person or persons complained of, and prosecuted for such Offence, to Commit him or them to the next Goal in the County where the Offence is done, there to remain till Satisfaction be made as above said: Or otherwise may punish such Offender by Imprisonment, not exceeding sixty dayes, in lieu of the Fine, and leave the party injured to his remedy at Law, to recover his damage of the Parent or Master of such Child or Apprentice; which such Parent or Master respectively shall be liable to have recovered of him upon Action to be therefore brought, and Execution to be accordingly awarded upon Judgment given in that respect.

And be it further Enacted by the Authority aforesaid, That when and so often as any Trespass or Trespases shall be done in common or general Fields, not being sufficiently Fenced in as the Law directs, the party injured shall forthwith procure two sufficient persons of good repute and credit, to view and adjudge of the damage done, giving notice of such Trespass unto the Owner or Claimer of the Beast or Cattle that did the same (if known and resident in the same Town or near by) that he may be present, and nominate one of the Apprizers if he see cause, and the damage to be answered according to such Estimation.

And where damage happens through the insufficiency of the Fence, the Owner or Occupier of the Land to which the defective Fence belongs, shall be liable to answer and make good all such Damage.

An

Trespases.

119

An Act for preventing of Trespases.

BE it Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That all and every person and persons which shall unlawfully cut or take away any Grass, Corn or Grain, growing, or rob any Orchard or Garden, or break or cut, pull down or remove any Hedge, Pale, Rail or Fence, or that shall hurt or digg, or pull up, or take away any Grafts or Fruit Trees, and their Procurers or Receivers knowing the same, being thereof convicted by confession of the party, or by the testimony of sufficient Witnesses upon Oath before any Court, or any one Justice of the Peace in the County where the Offence shall be committed, shall pay unto the party injured, such recompence as by the Court or Justice before whom the Trespass is found shall be awarded.

Robbers of Orchards, Gardens, &c. how to be punished.

And be it further Enacted by the Authority aforesaid, That if any person or persons shall cut or carry off any manner of Wood, Underwood, Timber, Poles, or Trees standing, lying or growing on the Land of any others, or off or from the Commons of any Town, other than that to which he doth belong, or within the same Town, having no right or privilege there, without leave or licence from the major part of the Propriety of such Commons, or the Owner or Owners of the Land whereon such Wood, Underwood, Timber, Poles or Trees were standing, lying or growing: Every person so offending, shall forfeit and pay unto the party or parties injured or trespassed upon, the Sum of *Twenty Shillings* for every Tree of one foot over, and *Ten Shillings* for every Tree or Pole under that bigness, and for other Wood or Underwood treble the value thereof; to be recovered by Action, Bill, Plaint or Information before any Justice of the Peace in the County where the Offence is committed, if the forfeiture exceed not *Forty Shillings*, but if it be above that value, then before the Inferiour Court of Common Pleas within the same County. And if any person shall be convicted of such Offence a second time, he shall forfeit and pay to the use of the poor of the Town where the Offence is committed, the Sum of *Twenty Shillings*, or sufficient one months Imprisonment over and above the forfeiture above said, or damages to the party injured.

Penalty for cutting or carrying off any Trees, Wood, &c. from off another mans Land, or off the common.

Forfeiture upon a second conviction.

And be it further Enacted by the Authority aforesaid, That if any Children or Servants shall offend against this Act in any of the particulars therein mentioned, and their Parents or Masters refuse to answer the forfeiture or damage awarded against them, they shall be punished by Whipping, setting in the Stocks or Cage, or by Imprisonment, at the discretion of the Court or Justice before whom the prosecution shall be, according to the nature and degree of the Offence and circumstances aggravating.

Children or Servants offending against this Act, how punished.

And be it further Enacted by the Authority aforesaid, That when in Action of Trespass brought before a Justice of Peace, the Defendant shall justify and demur upon plea of Title, a Record shall be made thereof, and the matter of Fact be taken *pro confesso*, and the party making such Plea shall become bound with one or more Sureties by way of Recognisance unto the adverse party in a reasonable Sum, not exceeding *Twenty Pounds*; on condition that he shall pursue his Plea, and bring forward a Suit for a Tryal of his Title, at the next Inferiour Court of Common Pleas to be holden for the County in which such Trespass is alleged.

In action of Trespass before a Justice of Peace, if the Defendant justify on Plea of Title, the cause to be removed, and bond given.

Stol'n Goods.

Upon neglect or refusal to give bond, the case to proceed.

alleged to be done, and pay and satisfy all such damages and costs as by the said Court shall be awarded against him; which Recognisance the Justice is hereby Impowred to require and take, and shall be paid for the same by the Reconuscer, *Two Shillings*, and *One Shilling* for Recording his plea, and at the Charge also of the same party shall certify the Process and Record of such plea, together with the Recognisance, unto the said Inferiour Court of Common Pleas. And if such Reconuscer shall neglect to bring forward such Suit at the Inferiour Court according to the tenour of his Recognisance, the default shall be Recorded, and a Writ of *Scire Facias* be issued out of the Clerk's Office of the same Court, in manner as by Law is directed for the recovery of the Sum or penalty in the Recognisance mentioned of him, his Surety or Sureties. Or if upon Tryal before the said Court he shall not make out a Title to the Land or Tenement on which the Trespass is laid to be done paramount to the possession or other Title of the adverse party, Judgment shall be rendred for the party trespassed upon, for treble damages and costs of Suit. But if the Defendant in Trespass justifying on plea of Title shall refuse or neglect to become bound in manner as aforesaid, then his plea shall abate, and the Justice notwithstanding the same shall proceed to try the cause, and upon due proof of the Trespass committed by him shall award damages against him according to what shall be made out, and cost of Suit.

Breach of the Peace to be punished.

And be it further Enacted, That if in the opening and pleading of any Action of Trespass there be disclosed and proved any breach of the Peace, the party or parties guilty thereof, shall be Fined to the King, or otherwise punished as the Law in such case provides:

An Act against Receiving of Stol'n Goods.

VV HEREAS divers leud and evil minded persons for the sake of filthy Lucre, do frequently receive from Indians, Molatto's, Negro's and other suspected persons, Money and Goods Stol'n, or obtained by other indirect and unlawful wayes and means, thereby Encouraging of Theft.

For Redress whereof,

Persons receiving or buying Stol'n Goods &c. to make restitution.

Be it Declared and Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That every person whomsoever which shall presume either openly or privately, to buy or receive of or from any Indian, Molatto or Negro Servant or Slave, or of other known, dissolute, leud and disorderly person, of whom there is just cause of suspicion, any Money, Goods, Wares, Merchandizes or Provisions: And it appear the same Money, Goods, Wares, Merchandizes or Provisions to have been Stol'n, gotten or obtained by any indirect or unlawful wayes or means; every person so offending, and being thereof convicted, shall be sentenced to restore all such Money, Goods, Wares, Merchandizes or Provisions, unto the party injured in Specie (if not altered) and also forfeit to the said party the value thereof over and above; or double the value, where the same are disposed of or made away. And if the person so offending be unable, or shall not make restitution as awarded, then to be openly Whip't with so many stripes, (not exceeding Twenty) as the Justices or Court that may have Cognizance of the Offence shall order, or to make satisfaction by Service. And the Indian, Negro, Molatto or other

Strays, Lost Goods, &c.

121

other suspicious person as aforesaid of or from whom such Money, Goods, Wares, Merchandizes or Provisions shall be received or bought: shall be punished by Whipping, not exceeding Twenty Stripes, and be further prosecuted as the Law directs in case of Theft, unless where such Money, Goods, or Provisions shall be taken from the Master of such person:

If unable to make restitution to be corporally punished.

An Act relating to Stray's & lost Goods, &c.

BE it Enacted by the Lieutenant Governour, Council and Representatives, Convened in General Assembly, and by the Authority of the same, That whosoever shall find any Money or Goods lost, whereof the Owner is not known, the finder within six days at the farthest next after, shall give notice thereof in writing unto the Clerk of the Town in which they were found, to be entred in a Book to be kept for that purpose; and shall also cause the same to be Cryed by the Constable or publick Cryer in such Town, on three several days, at a Publick Meeting of the Inhabitants thereof; and to be Posted up in some publick place: And if the Money or Goods so found be of the value of *Twenty Shillings* or upwards, then to be Cryed and Posted up in like manner at the two next adjacent Towns.

Money or Goods found to be Entred with the Town Clerk in 6 days after finding.

to be cryed and posted.

And be it further Enacted by the Authority aforesaid, That every person who shall find and take up any stray beault, shall cause the same to be entred with the colour and marks natural and artificial, and also to be posted up and Cryed in manner and time as aforesaid, and likewise within twenty four hours shall put, and from time to time keep a Wyth about the neck of such stray Beault, on pain of losing all his Charges about it afterwards.

Stray beaults to be cryed posted and wythed.

And the finder of any lost Goods or Stray Beault shall also within the time before-mentioned, Notify the next Justice of the Peace within the same County thereof, and such Justice shall forthwith thereupon order the same to be apprizd by two meet persons by him to be appointed, and shall administer an Oath unto them to deal justly and indifferently therein.

The next Justice to be notified of lost Goods & Strays. the same to be apprizd.

And if the finder of any lost Goods or Stray Beault shall neglect to cause the same to be entred, cryed and posted up in manner and time as before is exprest, or to wyth such Beault, or if the Town Clerk shall neglect to enter any lost Money, Goods or Stray, whereof he shall be Notified, and have tendred unto him the Fee of *Six pence*, (which he may demand and receive and no more) such Finder or Town Clerk for such omission and default respectively shall forfeit and pay to the use of the poor of such Town, one third part of the full value of such lost Money, Goods or Strays.

Penalty on the finder for neglect of entring, crying & posting, and on the Town Clerk for his neglect.

And it is further Enacted, That if the Owner of any such lost Money, Goods or stray Beault appear within the space of one year next after such publication as aforesaid, and make out his right and title thereto, he shall have restitution of the same, or the full value thereof; allowing and paying *Three pence* for each time it was Cryed, *Six pence* for Entring thereof as aforesaid; as also paying such necessary Charges as shall have arisen for the keeping of such Strays, lost Money or Goods, or necessary Travel about them to be adjudget and determined by the Justice that ordered the apprizal thereof, or by some other Justice in the same County.

Restitution to be made to the owner.

Fee for crying and entring.

And if no Owner appear within one year as aforesaid, then such Strays, lost Money or Goods shall be to the Finder, he paying one half of the value thereof (all necessary charges being first deducted) according to apprizement, unto the Treasurer or Overseers of the Poor of such Town, for the use of the poor thereof, and to be recovered by the Town Treasurer, Select-

No owner appearing to be divided betwixt the Finder and the poor of the Town.

Licensed Houses, &c.

men or Overseers of the poor respectively as in other Cases, upon neglect or refusal to pay the same.

Penalty for taking off the Wyth, or taking away any Stray.

And it is further Declared and Enacted by the Authority aforesaid, That if any Owner of any Stray Beast, or other person shall take the Wyth off from the same, or take away such Stray before all the necessary Charges arisen for the entring, crying, and keeping thereof be defrayed, such person so offending shall forfeit and pay unto the Finder of such Stray, the full value of the same.

Penalties, &c. how to be recovered.

All the Penalties and Forfeitures in this Act mentioned, to be recovered by Action, Bill, Plaint or Information before a Justice of the Peace, where the value exceeds not his Cognisance, or in any other of His Majesties Courts within this Province.

No Strays to be made from the first of March to the first of December.

Provided, That no person from the first day of March to the first day of December yearly, shall take up any Horse, Gelding, Mare or other Beast for a Stray, or account or use them as Strays, though the Owner thereof be not known, unless such Beast be taken damage feasant in Inclosures.

An Act for the Inspecting and Suppressing of Disorders in Licensed Houses, &c.

Inn-holders &c. to be provided for Entertainment of men and horses.

BE it Enacted and Declared by the Lieutenant Governour, Council and Representatives, Convened in General Assembly, and by the Authority of the same, That all Inholders, Taverners and Common Victuallers shall at all times be furnished with suitable Provisions and Lodging for the Refreshment and Entertainment of Strangers and Travellers, Pasturing, Stable Room, Hay and Provender for Horses, on pain of being deprived of their Licence.

Penalty for entertaining of Servants or Negro's.

And that no person who is or shall be Licenced to be an Inn holder, Taverner, Common Victualler or Retailer, shall suffer any Apprentice, Servant or Negro to sit Drinking in his or her House, or to have any manner of Drink there, without special order or allowance of their respective Masters, on pain of Forfeiting the Sum of *Ten Shillings* for every such Offence. Neither shall any Licenced person suffer any Inhabitant of such Town where he dwells, or coming thither from any other Town, to sit Drinking or Tipling in his or her House, or any of the Dependencies thereof, or to continue there above the space of one hour (other than Travellers, persons upon business or extraordinary occasions) on the like penalty of *Ten Shillings* for every Offence.

None to continue in public houses above one hour, unless &c.

And every person who contrary to this Act, shall continue in any such House Tipling or Drinking, or otherwise misordering him or her self, or above the space of one hour (other than as aforesaid) shall forfeit and pay the Sum of *Three Shillings* and *Four pence*, or be set in the Stocks, not exceeding four hours time.

None to be suffered to be drunk there or to be there on the Lord's day, unless &c.

And no person or persons Licenced as aforesaid, shall suffer any person to Drink to Drunkenness, or excess in his or her House, nor shall suffer any person as his or her Guest to be and remain in such House or any the Dependencies thereof, on the Lords Day (other than Strangers, Travellers, or such as come thither for necessary refreshment) on pain of forfeiting the Sum of *Five Shillings* for every Offence in that kind.

Penalties &c. how to be employed.

And be it further Enacted by the Authority aforesaid, That all Fines and Forfeitures arising for any of the Offences before mentioned, shall be one moiety thereof to the use of the poor of the Town where the

Licensed Houses, &c.

123

the Offence is committed, and the other moiety to him or them that shall inform and prosecute for the same, (except where such Offences are presented by a Grand Jury, in which case, the whole forfeiture to be to the use of the Town.) And every Justice of the Peace within his Precincts is hereby impowred to hear and determine concerning any of the Offences aforesaid, and to restrain and commit the Offender to Prison, until he pay and satisfy the penalty or forfeiture, or otherwise by Warrant cause the same to be levied by Distress and Sale of the Offenders Goods.

Justice of the Peace his power.

And be it further Enacted by the Authority aforesaid, That before any person shall receive Licence to be an Inn-holder, common Victualler, Taverner or Retailer, every such person shall become bound by Recognisance to His Majesty, in the Sum of Ten Pounds the Principal, and two Sureties in Five Pounds a piece, before one or more of the Justices of the General Sessions of the Peace, On Condition following.

No Innholder &c. to receive Licence before entering into Recognisance.

That is to say,

THE Condition of this Recognisance is such, That whereas the above-bounden A. B. is admitted and allowed by the Justices of the Court of General Sessions of the Peace, to keep a Common Inn, Ale-house or Victualling house, and to use common Selling of Wine, Beer, Ale, Cyder, and other strong Liquors by Retail for the space of one whole year next ensuing; and no longer, in the now Dwelling-House of the said A. B. in C. commonly known by the Sign of *and* no other: If therefore the said A. B. during the time aforesaid shall not permit, suffer or have any playing at Dice, Cards, Tables, Quoits, Loggets, Bowles, Shuffle board, Nine pins, Billiards, or any other unlawful Game or Games, in his House, Yard, Garden, Back-side; or any of the Dependencies thereof; nor shall suffer to be or remain in his House any person or persons, (not being of his ordinary Household or Family) on the Lords Day or any part thereof, contrary to Law, nor shall Sell any Wine, Liquors or other Strong Drink to any Apprentices, Servants, Indians or Negro's, nor shall suffer any person or persons to be there Tipling, Drinking, or continue there after nine of the Clock in the night time, or otherwise contrary to Law. And in his said House, shall and do use, maintain and uphold good order and rule, and do endeavour the due Observance of the Laws, made for Regulation of such Houses. Then this present Recognisance to be void, but on default thereof, to abide and remain in full force and virtue.

Recognisance for Innholders, &c.

And before any person shall receive Licence to Retail any Wine or strong Liquors to be spent out of Doors, and not otherwise, such person shall become bound by Recognisance as aforesaid, On Condition following.

That is to say,

THE Condition of this Recognisance is such, That whereas the above bounden A. B. is Licensed and allowed by the Justices of the Court of General Sessions of the Peace, to Retail for the space of one whole year next ensuing, and no longer, out of his now Dwelling-House in C. *Sort of Strong Liquors,* to be spent out of Doors and not otherwise: If therefore the said A. B. shall not entertain or suffer any person or persons to sit Drinking or Tipling in his House, Cellar, Back-sides, or any of the Dependencies of said House, nor shall Sell any other sort of drink than what he is Licensed for as above-said. And shall and do in and by all things observe the directions of the Law relating to persons Licensed for Retailing out of Doors only. Then this present Recognisance to be void, but on default thereof to abide and remain in full force and virtue.

Recognisance for Retailers out of doors.

For each of which aforesaid Recognisances the party to whom such Li-

Tythingmen.

cence shall be granted, shall pay *Two Shillings*, to be divided betwixt the Justice and the Clerk.

And for the better inspecting of Licensed Houses, and the discovery of such persons as shall presume to Sell without Licence.

Tythingmen
to be annually
chosen.

Tythingmen
their Power
and duty.

Be it Enacted by the Authority aforesaid, That the Select men in each Town respectively shall take due care, That Tythingmen be annually chosen at the General Meeting for Choice of Town Officers as is by Law provided, and upon any vacancy to fill up the number at any other Town Meeting: Which Tythingmen shall have power, and whose Duty it shall be carefully to inspect all Licensed Houses, and to inform of all disorders or misdemeanours which they shall discover or know to be committed in them or any of them to a Justice of the Peace, or Sessions of the Peace within the same County, as also of all such as shall Sell by Retail, without Licence, and other disorders or misdemeanours committed in any such House; and in like manner to present or inform of all idle and disorderly persons, prophane Swearers or Curfers, Sabbath breakers, and the like Offenders, to the intent such Offences and Misdemeanours may be duly punished and discouraged: Every of which Tythingmen shall be Sworn before a Justice of the Peace, or at the Sessions of the Peace, to the faithful discharge of his Office in manner following.

Oath.

That is to say,
YOU A. B. being Chosen a Tythingman within the Town of C. for one year next ensuing, and until another be Chosen and Sworn in your stead: Do Swear, That you will faithfully endeavour and intend the Duty of your Office So help you God.

Staff.

Which Tythingmen shall have a black Staff of two foot long, tip't at one end with brass about three inches, as a badge of their Office, to be provided by the Select men at the Charge of the Town.

Penalty for
not serving.

And be it further Enacted by the Authority aforesaid, That if any person being duly Chosen to the said Office, shall refuse to take his Oath, or Serve therein, he shall forfeit and pay the Sum of *Forty Shillings* to the use of the Poor of the Town whereto he belongs, upon Conviction of such refusal before the Justice of the Peace, or Sessions of the Peace where he is Summoned to be Sworn, Certificate being produced under the Hand of the Town Clerk, that such person was legally Chosen to that Office. And the said Forfeiture to be Levied by Distress and Sale of such persons Goods, by Warrant from a Justice of the Peace, or Sessions of the Peace respectively, and delivered to the Town Treasurer or Overseers of the Poor, for the use aforesaid. And for want of such Goods whereon to make Distress, the Officer in the said Warrant shall be required to Seize the Body of the Offender, and him commit unto Prison, to be there kept, until he shall answer and pay the said Fine or Forfeiture, with the Charges of levying the same.

Tythingmen
allowed the
benefit of
Informers.

And all Tythingmen that shall inform and prosecute for the breach of any penal Act, shall have the benefit of such part of the Forfeiture as does by Law accrue unto the Informer. And all persons prosecuted for breach of any Act relating to Retailing without Licence, the penalty whereof for one Offence exceeds not *Forty Shillings*, besides Charges, may be convicted by two single Evidences upon Oath, though but one to one breach of such Act, so as both the breaches be within one month, the person accused or complained of not plainly and positively denying the Fact.

And be it further Enacted by the Authority aforesaid, That every person to whom any Licence shall be granted, before the receiving or exercising of

Licensed Houses, &c.

125

of the same, over and above the Recognisance required for the due observation of the Laws, and keeping of good Rule and Order as aforesaid, shall also become bound unto His Majesty in a distinct Recognisance, with sufficient Sureties, in manner as aforesaid, and in such Sum as the Justices in Sessions shall appoint. On Condition that the person so Licensed shall duly and truly pay the Duties of Excise for his Draught, according to the Rates by Law Established, or otherwise perform such Agreement for the same as shall be made with the Officer or Officers, that shall from time to time be appointed to agree for, and receive the said Duties. For which Recognisance he shall pay the like Fee before-mentioned.

Licensed persons also to enter into Recognisance, for paying their Excise.

And be it further Enacted, That for the future the time of granting of Licences to Inn holders and Retailers of Drink, shall be at the first General Sessions of the Peace that shall be held and kept in course within the several Counties at or next after the nine and twentieth day of June annually; and that such as have already obtained Licences, shall hold them (unless they forfeit the same by breach of Law) until the General Sessions of the Peace to be held in the respective Counties as aforesaid, next after the nine and twentieth day of June, One Thousand Six Hundred Ninety Nine: Any Law or Usage to the contrary notwithstanding.

Licence to be granted at the next General Sessions of the Peace, after the 29 of June annually.

And the better to prevent Nursery's of Vice and Debauchery.

It is further Declared, That the Justices of the General Sessions of the Peace in each County respectively, be, and hereby are directed not to Licence more persons in any Town or Precinct to keep Houses for common Entertainment, or to Retail Ale, Beer, Cyder, Wine or strong Liquors within or out of doors, than the said Justices shall judge necessary for the receiving and refreshment of Travellers and Strangers; and to Serve the publick occasions of such Town or Precinct, having regard to the Law for the Qualification and Approbation of the persons so to be Licensed. And all Publick Houses shall be on or near the high Streets, Roads, and places of great Resort.

No more persons to be Licensed to keep Publick houses, than what are necessary for refreshment of Travellers, &c.

And be it further Enacted by the Authority aforesaid, That the Clerk of the Inferiour Court of Common Pleas in each several County; And the Clerk of the Superiour Court of Judicature respectively, by direction of the Court from time to time, shall by Writ of *Scire Facias* prosecute to effect all such Recognisances as shall be taken in Court, or before any Justice, whereof default is or shall be made in not performing the Condition of the same. And upon Execution awarded, to make out such Execution unto the Sheriff of the County, or his Deputy; who are accordingly to Levy the Sum therein expressed; and to account for the Monies or Estate Levied for Satisfaction thereof, unto the Treasury, as by Law he is obliged. And no Recognisance for the keeping of good Rule and Order in publick Licensed Houses, or for Retailing out of doors, shall be put in Suit for any breach thereof made, after the Expiration of two years from the time of taking such Recognisance.

Publick houses to be on high-streets, &c.

Clerks of the several Courts to put in suit Recognisances.

An

Prisoners.

An Act for the Relief and Release of poor Prisoners for Debt.

Justices of Peace on the Petition of Prisoners for Debt to Administer an Oath to them.

BE it Enacted and Declared by the Lieutenant Governor, Council and Representatives in General Court Assembled, and by the Authority of the same, That it shall and may be lawful to and for any Justice of the Peace by Warrant under his Hand and Seal, to require the Goaler or Keeper of any Prison within his Jurisdiction, from time to time to bring without delay the Body of any person being in Prison for Debt or Damages upon Execution (and petitioning such Justice to be discharged) to some convenient place not exceeding the distance of one mile from the said Prison, and to certify the cause and causes of the Imprisonment before the same Justice, which Warrant every such Goaler and Keeper is hereby commanded to obey.

And in case such Prisoner coming before such Justice shall take an Oath to this Effect, *viz.*

Oath.

I A. B. do upon my Oath solemnly profess and declare before Almighty God, That I have not any Estate real or personal in possession, reversion or remainder of the value of Ten Pounds in the whole or sufficient to pay the Debt or Damages, for which I am Imprisoned, and that I have not directly or indirectly Sold, Leased or otherwise conveyed, disposed of or entrusted all or any part of my Estate thereby to secure the same, to receive or expect any profit or advantage thereof, to defraud or deceive any Creditor or Creditors whatsoever, to whom I stand Indebted.

Notice of such Oath being taken to be given to the Creditor.

Then after the taking of such Oath the said Justice shall Remand the Prisoner to Prison, and shall give a Certificate thereof in Writing under his Hand and Seal to the same Prisoner, to be Served upon such person or persons, his or her Executors or Administrators, or to be left at the place of the usual abode of such person or persons, at whose Suit the Prisoner standeth charged and imprisoned, thereby appointing as well the said person or persons as the said Prisoner to appear before the Justice at the next General Sessions of the Peace, to be holden for the same County. And if it shall then appear upon Oath, (which Oath the said Justices are impowred to administer) that the said Certificate was so served or left fifteen dayes or more before the said Sessions, and that the said Oath taken by such Prisoner, be not disproved by good testimony of any credible person or persons upon Oath to be administered by the said Justices by virtue of this Act. Then the said Justices being satisfied therein, shall direct their Warrant under their Hands and Seals to the said Goaler or Keeper of the Prison, Commanding him to set at liberty, and discharge the said Prisoner, if imprisoned for the Causes aforesaid, and no other, without paying any thing for Fee or Chamber Rent, which Warrant shall be a sufficient discharge to the same Goaler or Keeper of Prison, and no Action of Escape, or other Action shall be brought against such Justice or Justices, Goaler or Keeper of Prison for the same in any wise, and upon any such Action or Suit brought, he or they may plead the general issue, and give this Act in Evidence, which shall be a good and sufficient Discharge, and shall save harmless every such Justice or Justices, Goaler or Keeper, pleading the same. And if the Plaintiff in any such Action, shall be Non-suited, or Verdict pass against him, the Defendant shall have double Costs to be taxed by the Court where such Action is brought.

Court of General Sessions to set at liberty poor prisoners for Debt.

Provided

Prisoners.

127

Provided always, and be it Enacted by the Authority aforesaid, That when such Prisoner or Prisoners for Debt shall have legally taken the said Oath in this Act proposed to be taken, and shall have duly Summoned his or their Creditor or Creditors, if such Creditor or Creditors after the said fifteen days time shall make no discovery of any Estate of such Prisoner or Prisoners, nor disprove the said Oath, and detect him or them of forswearing him or themselves, and notwithstanding will not be satisfied therewith (that the said Prisoner or Prisoners may be set at liberty) or will insist to have the said Prisoner or Prisoners continued in Goal. Then the said Creditor or Creditors shall at his and their own Costs and Charges allow and pay weekly a reasonable maintenance to the said Prisoner or Prisoners themselves, such as the said Justices shall order and appoint, not exceeding *Two Shillings and Six pence* a week, and upon non-payment of the same weekly, the said Prisoner or Prisoners shall be set at liberty, according to the true intent and meaning of this Act. And if within the space of three months after such weekly allowance by any Creditor, no Estate of the Prisoner shall be discovered or made out before two Justices of the Peace of that County where the said Prisoner is kept in Prison, then the said Prisoner shall forthwith be discharged by Warrant under the Hands and Seals of any two Justices of the Peace in the County where the said Prisoner shall be so in Prison, to the Keeper of such Prison in that behalf directed, as fully and amply as if such Prisoner had been discharged by the Justices of the Peace, at the General Sessions of the Peace, as is herein before directed, and from thenceforth the said weekly allowance shall cease and determine, as if the same had never been made.

Creditors to make an allowance for the maintenance of such Prisoners for Debt, as they shall desire to be continued in prison, notwithstanding their having taken the Oath as aforesaid.

The Prisoner upon default of having such maintenance allowed him to be set at liberty.

Provided also, That if at any time after the taking of the aforesaid Oath, the said Prisoner or Prisoners shall upon any Indictment or Indictments, or by his or their own confession or verdict of twelve men, be convicted of false Swearing in any point or article contained in the said Oath, then such Prisoner or Prisoners so convicted as aforesaid, shall suffer the pains and forfeitures as by Law are to be inflicted upon any person convicted of wilful Perjury. And also the Court by Process out of which the Prisoner was imprisoned, shall award a new Process directed to the Sheriff or his Deputy of such County, and shall remand the said Prisoner into the Prison whence he or she was dismissed, there to remain in Execution in such manner and condition as he or she was before his or her said Enlargement, and then and from thenceforth shall be adjudged to be in Execution fully, as if he or she had never been discharged thereof. And the Execution and Executions upon his or her Lands, Tenements, Hereditaments, Goods and Chattels, if any such happen to be, after his or her said Discharge out of Prison, and before he or she shall be remanded, shall stand also good and effectual in Law. Any Law, Usage or Custom to the contrary notwithstanding.

Penalty on Prisoners convicted of false Swearing.

Provided also, And be it further Enacted by the Authority aforesaid, That notwithstanding the discharge of the person of such Prisoner as aforesaid upon taking the Oath aforesaid, all and every Judgment had and given against him or her, shall be and stand good and effectual in Law to all intents and purposes against the Lands, Tenements, Goods and Chattels only, of the said Prisoner so discharged as aforesaid; and it shall, and may be lawful, to and for such Creditor of such Prisoner or Prisoners so discharged as aforesaid; his Executors, Administrators or Assigns, to take out any new Execution against the Lands, Tenements, Hereditaments, Goods and Chattels of such Prisoner or Prisoners (his or her wearing Apparel, Bedding for him and his, or her Family, and Tools necessary for his or her Trade and Occupation only excepted) for the satisfaction of his or their said Debt, in such sort, manner and form as he or they might have

Judgments against the Lands &c. of any Prisoner to stand good notwithstanding his discharge upon taking the Oath aforesaid.

Prisoners.

have done if the person or persons of such Prisoner or Prisoners had never been taken in Execution. Any Law or Custom to the contrary notwithstanding.

Penalty on any Goaler refusing to set any Prisoner at liberty when duly required.

Provided also, in case any Goaler or Keeper of Prison shall refuse or delay to bring on discharge and set at liberty any Prisoner according to the order of the Justice or Justices, to be made in manner as aforesaid. Every such Goaler or Keeper of Prison shall forfeit and pay to such Prisoner detained contrary to such Order, the Sum of *Twenty Pounds*, to be recovered by Action of Debt in any Court of Record, and shall also be subject to such Fine and punishment as the said Justices of the Peace shall upon Complaint thereof to them made, order and award.

No person to be discharged that hath not been in Prison one month, &c.

Provided also, and be it further Enacted, That no person shall be discharged by this Act that hath not or shall not before such Oath made, have remained in Prison by the space of one month, nor shall any person be discharged by this Act, who shall stand charged in Execution, with more than the sum of *Five Hundred Pounds* to any one person, principal money and damages.

Creditor not obliged to maintain Prisoners having able Relations.

Provided also, That no Creditor insisting to have his Debtor continued in Prison, shall be bound to make any weekly allowance for the subsistence of the Prisoner where the Father, Mother, Son or Daughter, or other person who by the Law of this Province, are bound to maintain him in discharge of the Town, if he were at large, are of sufficient ability to maintain such Prisoner.

Debtors used to labour, &c. to satisfy their Debts by Service, if desired by the Creditor.

And if any Creditor insisting to have his Debtor continued in Prison, and ordered to make allowance towards his maintenance, shall desire to have his Debtor, (being a person formerly using any Handicraft or day labour, and not having a Wife or Family) to satisfy such Debt by Service; the Justices at the General Sessions of the Peace within the same County, shall direct and order the Term for which such Debtor shall Serve, and the Creditor shall and hereby is impowred to detain and hold him in Service, during such Term.

Provided also, That this Act shall not extend to any person or persons in Execution for any Fine on him or her imposed.

Persons liable to answer the Debt of any Prisoner, not to be freed therefrom by the Discharge of the Prisoner.

And be it further *Provided* and Enacted, That the discharge of any person or persons by virtue of this Act, shall not amount unto or be construed to free or discharge any other person or persons joynly or severally bound for, or liable to answer or satisfy the said Debt, or any part thereof, either as Principal or Surety, but that such other person or persons shall be liable to answer the said Debt and Damages in such manner to all intents and purposes, as they were before the discharge of such Prisoner.

Prisoners when discharged to give in a Schedule upon Oath of Debts, &c. to them owing.

Provided also, That no Prisoner shall be discharged by virtue of this Act, until he shall before the Justices of the Peace, who are by this Act impowred to discharge him; declare upon his Oath (which Oath the said Justices are hereby impowred to administer) what Effects are belonging to him, or what Debt or Debts are then owing to him within any of His Majesties Dominions or elsewhere, and by whom, and for what cause, and upon what security; of all which a Schedule shall be made in the presence of such Justices, and subscribed by the Prisoner, and shall be by such Justices returned to the next Sessions, there to be kept for the better Information of the Creditors of such Prisoner, who or such of them as will joyn may thereupon Sue for such Debt, or so much thereof, as will reasonably satisfy them in the name of the Prisoner, and after the same recovered, to render the Overplus (their own Debts and Charges subducted) to the Prisoner.

Fences, Cattle, &c.

129

An Act for Explanation and Addition to the Act for Regulating of Fences, Cattle, &c.

FORASMUCH as in and by an Act of this Province, Entituled, An Act for Regulating of Fences, Cattle, &c. made and passed in the Fifth Year of the Reign of His present Majesty, and His late Royal Consort, Queen Mary, of blessed Memory, amongst other things therein contained. It is Enacted, That in every Town and Peculiar within this Province, there be annually Chosen by the Inhabitants thereof, two or more meet persons to be viewers of Fences; but no penalty provided by the said Act, in case the persons so Chosen refuse to accept thereof.

Be it therefore Enacted and Declared by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That every meet person that shall hereafter be chosen a Viewer of Fences within any Town, or Peculiar in this Province, Refusing to accept thereof, or to be Sworn to the faithful discharge of that Office, shall forfeit and pay to the use of the Poor of such Town or Peculiar, the Sum of *Twenty Shillings*, and another shall be forthwith chosen in his room. And every person from time to time, chosen and sworn to the said Office, upon due notice given him, and being requested by any person or persons interested to view any insufficient and defective Fence in and about any general or common Field, or in and about any particular Field or Inclosure, shall forthwith attend the same: On pain of forfeiting the Sum of *Twenty Shillings*, one moiety thereof to the use of the poor of the Town or Peculiar, and the other Moiety to him that shall inform or sue for the same. And each Fence Viewer shall be allowed *Three Shillings* a day, and proportionably for half a day, and under that *Six pence* an hour for his time spent in viewing of any Fence or Fences, to be paid him by the party that sets him on work, who shall be reimburs'd the same by the Owner or Owners of the defective Fence. And when and so often as it shall happen, any Fence to be broken or fall'n down, or to be otherwise defective, the Owner or Occupant of the Land to which such Fence belongs, upon notice thereof given him shall forthwith repair the same. And in case he refuse or neglect so to do, the Fence Viewers shall cause the same to be sufficiently repaired as the Law directs. And all divisional Fences betwixt man and man shall be kept up in good repair for the whole year, unless the Proprietors of the Lands shall otherwise agree.

Penalty for
not Serving
as a Fence
Viewer.

Penalty for
not attending
his duty.

Allowance.

' And be it further Enacted by the Authority aforesaid, That for the better enabling of the Fence Viewers to discharge their Duty according to the true intent of the Law, It shall and may be lawful to and for any Fence Viewer by Warrant from the next Justice of the Peace, or Select men, (in such Towns where no Justice dwells) or the major part of them, who are hereby respectively impowred to make out such Warrant, to impress Workmen and Teams for the speedy repairing and making up of Fences that are defective or wanting; paying double the usual and accustomed Rates for such Teams and Workmanship and to the Fence Viewer for his time, to be adjusted and determined by the Select men, and to be by him recovered against the Owner or Occupier of the Land about which such Fence is set down or repaired, in manner as the Law directs.

Fence Viewers to be impowred by a Warrant to impress Workmen, &c.

Fences, Cattle &c.

Fence of
common
fields to be
maintained
by the Pro-
prietors in
proportion.

And be it further Enacted by the Authority aforesaid, That every party interested in any common or general Field shall from time to time make and maintain his just and due part and proportion of the Fence for enclosing the same according to his interest therein, in such manner as hath or shall be agreed on by the major part of the Propriety, the whole being duly warned and met to order the same, and the Orders so made shall be binding and obliging upon the Proprietors absent. And a third part of the Propriety in such common or general Field, shall and may call and summon a Meeting of the whole from time to time, as there shall be cause.

And no Proprietor in any such Field shall put or cause to be put any Beast, Cattle or Sheep thereinto, over and above the number allowed him, or keep them longer there than the time set and limited by the major part of the Propriety or Interested, on penalty of answering double the damages that shall happen or accrue thereby, to be recovered in any Court proper to try the same.

Partition
Fences to be
maintained
by the Pro-
prietors in
equal halves.

And it is further Enacted, That all partition Fences betwixt Lands under improvement, shall be made and maintained from time to time in equal halves by the Owners or Proprietors of such Lands respectively. And in case any Proprietor of Land shall improve his Land (the Land adjoining not being under improvement) and so make the whole partition Fence; When and so soon as the Owner or Proprietor of the adjoining Land shall also improve his, he shall pay for the one half of such partition Fence, according to the value thereof at that time, and keep up and maintain his half part thereof from thenceforward; But if either of such Proprietors adjoining do cease to make improvement of his Land, he that continues so to do, shall have liberty to purchase the other part of such partition Fence, as it shall then be valued to be worth, by persons indifferently chosen by each party for that purpose: And in case any person improving as aforesaid, shall neglect or refuse to make and maintain one half of the partition Fence betwixt his Land and the Land next adjoining, the Owner or Proprietor of such Land adjoining, shall be liable to a Suit, and to have recovered of him in any Court proper to try the same, the full value of the one half of such partition Fence, according to Estimation thereof upon apprizement, by the other party who makes and maintains the whole Fence, together with his damage sustained by such neglect or refusal as aforesaid: Saving always to every person & persons any particular Agreement or Agreements touching the making and maintaining of such divisional Fence between their Lands.

Fines & Penalties where
to be recovered

Proviso for
house Lots
not exceeding
ten acres.
Major part
of the Pro-
prietry in any
general field
to lay down
the same at
pleasure.

All Fines, Penalties, Forfeitures or Payments accruing by virtue of this Act from time to time to be had, sued for and recovered in any Court proper to try the same.

Provided, This Act shall not extend to House Lots not exceeding ten acres, but if the Owner or Owners of such Lots shall improve, his Neighbour shall be compellable to make and maintain one half of the Fence between them, whether he improve or not.

Provided also, That it shall and may be lawful, to and for the major part of the Interests or Propriety in any common or general Field, to dissolve and lay down the same at pleasure; All the Proprietors being first duly warned, and there being six months time given before any such Field is laid down.

An Act to prevent Default in the appearance of Jurors.

WHEREAS the Issues or Fine set upon Jurors for default of appearing and attending the Service of the several Courts of Justice within this Province whereto they are respectively Summoned, is by Law limited unto Twenty Shillings; whereby persons most able, and sufficient oft times decline the Service, choosing rather to incur and undergo so small a penalty; which may prove a general inconvenience, and tend greatly to the damage of particular persons in cases of the greatest moment and concern.

For Remedy whereof,

Be it Declared and Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That it shall and may be lawful to and for the Justices of the Superiour Court of Judicature, Court of Assize and General Goal Delivery, and the Justices of the General Sessions of the Peace, and of the Inferiour Court of Common Pleas respectively, to set reasonable Fines upon Jurors duly returned to Serve in the said several Courts, and making default, at the discretion of the said Justices, not exceeding the Sum of Forty Shillings each; And to cause the same to be Levied. Any Law, Usage or Custom to the contrary notwithstanding.

An Act Establishing of Sea Ports within this Province, and for ascertaining the Fees for entring and clearing of Vessels inward and outward bound.

FOR the better preventing of undue and unlawful Trading, and of Frauds and Abuses in the Duties and Impositions that are or shall be laid upon all Goods, Wares or Merchandizes, Wines, Liquors, or other Commodities that shall be Imported or Exported out of this Province, as also for the remedying and preventing the demanding or taking of excessive and unallowed Fees.

Be it Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That the Maritime Towns and places hereafter named, and no other shall be held, deemed and adjudged to be lawful Ports within this Province: That is to say, Boston, (of which Charlestown is to be accounted a Member) Salem, (whereof Marblehead is to be accounted a Member) Ipswich, Newbury (of which Salisbury is to be accounted a Member,) Kittery, Plymouth and Swansey: At every of which aforesaid Ports, an Office shall be held and kept for the Entering and Clearing of all Ships and other Vessels Trading to or from this Province, to be called and known by the name of the Naval Office: hath been heretofore accustomed; and at one of the Ports aforesaid, For Lading of the Member thereof, and not elsewhere, all Ships or other Vessels Trading to or from this Province, shall Lade and Unlade all Goods, Commodities, Wares and Merchandizes whatsoever, which they shall Import or Export.

Ports.

Ports.

port. And that an Office be held and kept at *Marthas Vineyard*, and another at *Nantuckett*, to Enter and Clear all Vessels passing to and from thence, but not to be accounted Ports for the Unlivery or Lading of any of the Enumerated Commodities.

And be it further Enacted by the Authority aforesaid, That the Fees in the said Office to be demanded and received, shall be these following, and no other, viz.

For entering all Ships and Vessels Trading to this place from abroad (excepting from the Provinces or Colonies of *Pensilvania*, *New-York*, *East* and *West Jersey*, *Connecticut*, *Rhode-Island*, *Narraganset*, and *New Hampshire*,) One Shilling.

} 00 01 00

Fees, For Examining and Recording Certificates that Bonds are given according to the Act of Navigation. Two Shillings.

} 00 02 00

For a Bond given according to the Act of Navigation, Two Shillings.

} 00 02 00

For Clearing and Certificate of the Lading. Two Shillings Six pence.

} 00 02 06

For all Vessels Trading to and from the Provinces or Colonies of *Pensilvania*, *New-York*, *East* and *West Jersey*, *Connecticut*, *Rhode-Island*, *Narraganset* and *New Hampshire*, Four Shillings per year, or Six pence entry and Sixpence clearing, each Voyage at the Masters choice.

}

Penalty for taking excessive Fees, and illegal delay of Entry and Clearing.

And be it further Enacted by the Authority aforesaid, That if any person employed in any of the said Offices shall demand or take any other or greater Fees than by this Act are now made due, or shall illegally delay and defer the Entering and Clearing any Ship or other Vessel, such Officer shall be liable to double Costs and Damages, being thereof duly convicted in any of His Majesties Courts of Record within this Province.

ACTS

Building of Ships.

133

ACTS and LAWS

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts Bay in New-England.* Begun and Held at *Boston*, the Twenty-fifth Day of *May*, 1698.
And continued by Prorogation until the Fifteenth of *November* following.

An Act for Regulating and Inspecting the Building of Ships.

FORASMUCH as the Building of Ships is a business of great Importance for the common good, and not only the safety of mens Estates, but Lives are nearly concerned in the well and orderly performing of the same. And forasmuch as Builders and Workmen employed under them, are oft times remiss and negligent of their Duty in that regard, as has been found by experience; and it being therefore necessary and agreeable to the course and practice of His Majesties Kingdom of England; That suitable provision be made, and effectual care taken therein.

Be it Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That when and so often as any Ship or Vessel of Thirty Tuns or upwards, is to be built and set up in any Town or Place within this Province, before any Plank be brought on, the Carpenter or Undertaker shall repair unto one of the Justices of the Peace within the same County, who, upon request made is hereby impowred to appoint and authorize one or more able Shipwrights to be Overseers and Surveyers of the said Building, and of all the materials and workmanship to be improved, made use of, done and to be done to, on and about the same from time to time, as often as the Carpenter or Undertaker shall see cause to call them thereto, and especially at such times as in and by this Act is hereafter directed and appointed; That is to say, Every Tear of Timbers shall be Surveyed before they be inclosed or covered with Plank, and the Floor Timbers before the Keelson be bolted down; The Beams and Timbers for the Decks shall be Surveyed after laying, before any Plank be fastned on, and the Bottom to be Surveyed before Calking: Which Overseers and Surveyers to be appointed as aforesaid, shall take care that all the materials in said Building be found, sufficient and suitable for the occasion, and that the works be done and performed strong, substantial and in workman like manner, according to the Rules of the Shipwrights art; and that all Trunnels be not only sound and well seasoned, but also without Sap. And shall have a particular care and regard that such Ship or Vessel be well Calked, and not to allow any Timber or Plank of Oak to be used therein, other than white Oak, and shall direct that all insufficient Materials be taken out, and that defective Workmanship be amended.

And the Surveyers and Overseers to be appointed as aforesaid, shall have an Oath Administred unto them to be faithful and indifferent between the Carpenter or Builder, and the Undertaker, and to observe the directions given them by this Act.

And be it further Enacted by the Authority aforesaid, That if any Carpenter or Builder shall bring to, and fasten any Plank upon any Ship or Vessel of the burthen aforesaid, before a Warrant of Survey be obtained as aforesaid, and the Surveyers and Overseers have been to view the Frame;

Warrant to be obtained & Survey made before Planking.

Special times for a Survey.

No Timber or Plank of Oak, other than white Oak to be used.

Surveyers to be Sworn.

Penalty on Builders neglecting to have a Survey

Addition to the Act against Adultery.

Every such Carpenter or Builder offending herein, shall forfeit and pay the Sum of *Ten Pounds*: One Moiety thereof unto His Majesty, for and towards the Support of the Government of this Province, and the contingent Charges thereof, and the other Moiety to him or them that shall inform and sue for the same, by Bill, Plaint or Information in any of His Majesties Courts of Record within this Province.

Builders penalty for not attending the advice of the Surveyers.

And if any Carpenter or Builder upon the advice and direction of such Surveyers or Overseers shall neglect to take out, reform and amend what is judged by them to be defective or amiss in any materials or workmanship, he shall forfeit and pay the Sum of *Five Shillings Per Diem*, to the use of the Poor of that Town where such Ship or Vessel shall be in Building, until the defects be amended; being convicted of such neglect before one or more Justices of the Peace, or before the Court of General Sessions of the Peace, unless such Justice or Court upon hearing of the Carpenter or Builder shall see cause to allow him some further reasonable time for doing of the same.

Overseers allowance.

And be it further Enacted by the Authority aforesaid, That when any Surveyers and Overseers are called upon by the Carpenter or Undertaker respectively to Survey the work or materials as is provided in this Act; Every such Surveyer or Overseer shall have for his care and attendance when called, *Three Shillings* for every Survey; Which Charge of Surveying is to be born by the Carpenter when he is in fault or defective; But when the Carpenter is not in fault, then by the Undertaker. And when the Surveyers or Overseers shall give their advice or judgment on or about any work unfinished, that the same is faulty or defective, the Carpenter shall not thereby incur the Charge of Surveying, but only when the Surveyers or Overseers see reason to direct the taking out or shifting any Timber or Plank.

And in case the Surveyers and Overseers are occasioned to Travel out of Town for the Surveying any Ship or Vessel in Building, they shall be further allowed for their time and necessary Charge.

An Act in Addition to, & Explanation of the Act against Adultery and Polygamie, made in the Sixth Year of the Reign of King William and Queen Mary.

WHEREAS in the Act Entituled, An Act against Adultery and Polygamie, It is provided in these words; Provided always that this Act or any thing therein contained shall not extend to any person or persons whose Husband or Wife shall be continually remaining beyond the Seas by the space of Seven Years together; or whose Husband or Wife shall absent him or her self the one from the other by the space of Seven Years together, in any part within Their Majesties Dominions or elsewhere, the one of them not knowing the other to be Absenting within that time. Which Limitation of Seven Years is in some Cases found to be Excessive and Inconvenient.

Therefore for the better preventing the Violation of the Seventh Commandment, and for obtaining the Blessings God is wont to bestow upon the Keepers of the same.

Affistance to Constables &c.

135

Be it Enacted and Declared by the Lieutenant Governour, Council and Representatives Convened in General Assembly: And it is Enacted and Declared by the Authority of the same, That if any married person, Man or Woman, has lately or shall hereafter go to Sea in any Ship or other Vessel bound from one Port to another where the Passage is usually made in three months time; and such Ship or other Vessel has not been, or shall not be heard of within the space of Three full Years next after their putting to Sea from such Port; or shall only be heard of under such circumstances, as may rather confirm the opinion commonly received of the whole Companys being utterly lost: In every such case, the matter being laid before the Governour and Council, and made to appear; The man or woman whose Relation is in this manner parted from him or her, may be esteemed single and unmarried; and upon such Declaration thereof, and Licence obtained from that Board, may lawfully marry again. Any Law, Usage or Custom to the contrary notwithstanding.

Limitation
of Three
Years in
case.

**An Act Enabling Sheriffs, Constables, &c. to
require aid and assistance in the Execution
of their respective Offices referring to
Criminals.**

FORASMUCH as it is oftentimes necessary, That Sheriffs, Under-Sheriffs and Constables be aided and assisted in the Execution of their respective Offices.

Be it therefore Enacted by the Lieutenant Governour, Council and Representatives, Convened in General Assembly, and by the Authority of the same, That when and so often as any Sheriff, Under-Sheriff or Constable shall be in the Execution of his Office for the preservation of the Peace or for apprehending or securing any person or persons for violating the same, or for any other criminal matter or cause. It shall and may be lawful to and for such Sheriff, Under-Sheriff or Constable to require suitable aid and assistance therein. And if any person or persons being required by any Sheriff, Under-Sheriff or Constable in His Majesties Name to aid or assist him in the Execution of his Office as aforesaid, shall neglect or refuse so to do, and be thereof convicted before one or more of His Majesties Justices of the Peace, such Offender or Offenders shall be fined, to the use of the Poor of the Town where the Offence shall be committed, not exceeding Forty Shillings, at the discretion of such Justice or Justices, according to the circumstances aggravating or lessening such Offence. And if such Offender or Offenders be unable or shall not forthwith pay the said Fine, such Justice or Justices may punish him or them by Imprisonment, not exceeding forty eight hours, or by setting in the Stocks, not exceeding four hours.

Penalty for
refusal or
neglect to
aid or assist
the Sheriff,
&c.

And if any person or persons not being really and bona fide a Sheriff, Under-Sheriff or Constable, shall presume to abuse His Majesties Name and Authority in pretending him or themselves to be any or either of the said Officers, and take upon him or themselves to act as such, or to require any other person or persons to aid or assist him or them in any matter or thing belonging to the duty of a Sheriff, Under-Sheriff or Constable: Every person or persons so offending, and being thereof convicted, shall forfeit and pay a Fine not exceeding One Hundred Pounds, according to the nature and circumstances aggravating his Offence, at the discretion of the Court, before

Penalty for
pretending to
be a Sheriff,
&c. & not
to bona fide.

Preservation of Deer.

fore whom the Conviction shall be ; one Moiety of the said Fine or Forfeiture to be unto His Majesty, towards the Support of the Government within this His Majesties Province, and the other Moiety to him or them that shall inform and prosecute for the same.

Justices may Command any person to apprehend an offender

And be it further Enacted by the Authority aforesaid, That any of His Majesties Justices, or Peace, for the preservation of the same, or upon view of the breach thereof, or of any other transgression of Law proper to his Cognizance done or committed by any person or persons whatsoever, shall, and hereby is impowred (in the absence of a Sheriff, Under Sheriff or Constable) to require any person or persons to apprehend and bring before him such Offender or Offenders. And every person and persons that shall neglect or refuse to obey any Justice or Justices in apprehending such Offender or Offenders, being thereunto required as aforesaid, shall incur and suffer the like pains and penalties as is before provided for refusing or neglecting to assist any Sheriff, Under-Sheriff or Constable in the Execution of his Office as before mentioned.

Penalty for neglect or refusal.

And no person or persons so offending, unto whom such Justice is known, or shall declare himself so to be, shall be admitted to plead excuse or pretence of ignorance of his Office.

An Act for the better Preservation and Increase of Deer within this Province.

WHEREAS the Killing of Deer at unseasonable times of the year hath been found very much to the prejudice of this Province, great numbers thereof having been hunted and destroyed in deep Snows when they are very poor, and big with young, the flesh and skins of very little value, and the increase thereof greatly hindered.

No Deer to be killed betwixt December & August yearly, on penalty.

Be it therefore Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That no person or persons whatsoever within this Province, from and after the last day of December, in this present year One Thousand Six Hundred Ninety Eight, till the first day of August, One Thousand Six Hundred Ninety Nine, and so from the last day of December, to the first day of August following annually for ever hereafter, shall any ways whatsoever, Kill any Buck, Doe or Fawn, on pain that such person or persons so Offending, shall forfeit the Sum of Forty Shillings for the first Offence, Three Pounds for the second Offence, and Five Pounds for the third Offence, and so for every Offence after : One Moiety thereof unto His Majesty, to be employed towards Support of the Government of this His Majesties Province, and the other Moiety to him or them that shall inform and sue for the same in any Court of Record within the said Province.

Persons unable to pay the Penalty, to satisfy by work.

And if any person or persons Offending as aforesaid, shall not have wherewithal to pay his or their Fine or Fines, he or they shall for the first Offence work twenty days, for the second thirty, and for the third Offence fifty days, as shall be directed by the Justices, before whom the cause shall be heard and determined ; and the Wages or Earnings for his or their work to be employed to and for the uses before-mentioned.

The flesh or skin of any Deer found to be sufficient conviction, unless, &c.

And if any Venison, Skin or Skins of any Buck, Doe or Fawn newly killed, shall, at any time in any of the aforesaid months wherein they are by this Act prohibited to be killed, be found with, or in possession of any person or persons whatsoever, such person or persons shall be held and

Cases in Equity.

137

and accounted in the Law to be guilty of killing Deer contrary to the intent of this Act, as fully as if it were proved against such person or persons by sufficient witness *viva voce*; except such person or persons do bring forth and make proof who was the person, or who were the persons that Sold or Killed the same.

Provided always, And be it further Enacted by the Authority aforesaid, That it shall and may be lawful for any person or persons whatsoever, who shall keep or breed any Deer, tame, or in any Park or Island, at any time to kill any Buck, Doe or Fawn so kept and bred. And that any person or persons whatsoever, shall have free liberty of Hunting as formerly to the Eastward of Piscataqua River. Any thing in this Act to the contrary notwithstanding.

Tame Deer may be kill'd at any time.

An Act for hearing and determining of Cases in Equity.

WHEREAS the Respective Courts of Justice within this Province are by Law Impowred, where the Forfeiture of any Penal Bond shall be found, in the Entering up of Judgment in such case to chancer the same unto the just debt and damages. The Practice whereof it found to give great ease and satisfaction unto His Majesties Subjects; whereby Oppression, Delay, and great Costs and Charges are prevented; which otherwise would unavoidably arise. And Applications having been unto this Court, That further provision may be made for relief in Equity, in cases not releivable by the Rules of the common Law.

To the intent therefore that Justice and Equity may be jointly Administred.

Be it Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That in all cases brought or to be brought for Tryal in the Superiour Court of Judicature, or in the Inferiour Court of Common Pleas within the several Counties; where the Forfeiture or Penalty annexed unto any Articles, Agreement, Covenant, Contract, Charter party, or other Specialties or Forfeiture of Estates on Condition Executed by Deed of Mortgage, or Bargain and Sale with Deceasance, shall be found by Verdict of Jury, or Confession of the Obligor, Mortgager or Vender; The Justices of the said Courts respectively where the Tryal is had, are hereby Impowred and Authorized, to moderate the rigour of the Law, and on consideration of such cases according to Equity and good Conscience to Chancer the Forfeiture; and Enter up Judgment for the just debt and damages, and to award Execution accordingly; Only in real actions upon Mortgage or Bargain and Sale, with Deceasance, the Judgment to be conditional; That the Mortgager or Vender, or his Heirs, Executors or Administrators do pay unto the Plaintiff, such Sum as the Court shall determine to be justly due thereupon, within two months time after Judgment Entred up for discharging of such Mortgage or Sale; Or that the Plaintiff recover possession of the Estate Sued for, and Execution to be awarded for the same.

Courts of Justice Impowred to chancer Penalties annexed to specialties and forfeitures of Estates granted on condition.

Provision for
cases of like
nature heard
& tried since
April. 1686.

And be it further Enacted by the Authority aforesaid, That in all cases of like nature heretofore heard and tryed in any of the Courts of Justice within this Province, since the month of April in the Year of Our Lord God, One Thousand Six Hundred Eighty Six, where the whole Forfeiture or Penalty of any Bond or Obligation, Conditioned for the payment of Money, performance of Articles, Covenants, Agreements, Charter parties or other Specialties has been Recovered and Exacted; Or where any Estate granted on condition by Mortgage, or Bargain and Sale, with Defeasance hath been recovered, and the Mortgagee or Vendee by himself or assigns hath entred into, or by any ways or means whatsoever obtained possession thereof for default of the Mortgager or Venders paying the Money, or otherwise performing what according to such Condition or Defeasance he ought to have done, the party agrieved and oppressed by such Exaction, or to whom the Right or Equity of redemption of any such Estate does belong, may bring his Suit for remedy and relief therein, by filing a Bill, Plaint or Declaration, either in the Superiour Court of Judicature, or the Inferiour Court of Common Pleas at his pleasure, and shall cause the adverse party to be Served with a Writ or Process out of such Court, fifteen days before the day of the sitting of the same; briefly notifying the import of the said Bill, Plaint or Declaration, & requiring him to appear at said Court, to make his Answer and Defence. And in case of the Defendants Non-appearance, or on motion made to the Court, and reasonable cause therefore shewn, the Court may continue such Suit unto the next Court and no longer. Provided no such Suit shall be brought, after the Tenth Day of December, which will be in the Year of Our Lord, One Thousand Seven Hundred and One.

The Justices
of the several
Courts Im-
powered to
receive and
hear such
cases and to
grant relife
in Equity.

And the Justices in the before mentioned Courts respectively are hereby Impowred and Authorized to receive and hear every such case and cases that shall be orderly brought before them as aforesaid, and on consideration of the several pleas and allegations made by either party to decree and enter up Judgment therein agreeable to Equity and good Conscience, and to award Execution accordingly. And where any Mortgagee or Vendee of any Houses or Lands granted on condition hath recovered, or entred into, and taken possession of the same for the condition broken, the Mortgager or Vender, or his Heirs tendring payment of the Original Debt & Damages, or such part thereof as was remaining unpaid, at the time of Entry; with reasonable costs and allowances for any disbursements afterwards laid out on such Housing or Lands for the advancement and bettering of the same, over and above what the Rents, profits or improvements thereof made shall amount unto, upon a just computation thereof by the Court, as on hearing of the parties shall be made to appear; The Mortgagee or Vendee, or his Heirs, or the present Tenant in possession (being the purchaser and holding in his own right) shall be obliged to accept such payment, and to restore and deliver possession of the Estate unto the Mortgager or Vender, or his Heirs, and Seal Execute, and Acknowledge a good and sufficient Deed in the Law of Release and Quitclaim to the same. But in case of his not appearing in Court, or refusal to accept such payment tendred, the whole of said Moneys which the Court shall enter Judgment for being left in custody of the Court on behalf, and for the use of the Mortgagee or Vendee, his Heirs or Assigns, Judgment shall be Entred up for the Mortgager or Vender, or his Heirs, to recover possession of such Houses or Lands, and Execution be accordingly awarded. And further it is Enacted, That at any time hereafter where the Mortgagee or Vendee shall be in actual possession of any Estate granted on condition, It shall be in the liberty of the Mortgager or Vender, or his Heirs to bring his Suit in manner as aforesaid, for redemption thereof within the space of three years next after the term therein expired, and not afterward.

Suit for Re-
demption
where the
Mortgagee is
in possession
to be brought
in 3 years.

Provided

Provided always, That the party agrieved at any Judgment to be given as aforesaid, shall have the same liberty of Appeal and Review as in other cases is provided at the common Law.

Appeal.

An Act for Establishing the Form of an Oath to be administred unto the Justices of the Superiour Court of Judicature, and the Justices of the Inferiour Court of Common Pleas respectively.

BE it Enacted by the Lieutenant Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That the Oath following shall be administred unto each of the Justices of the Superiour Court of Judicature, and also to each of the Justices of the respective Inferiour Courts of Common Pleas within this Province, by the Governour or Commander in Chief for the time being of the same, or such as shall be by him thereto appointed.

That is to say,

YOU Swear, That well and truly You shall Serve Our Sovereign Lord the King and His People in the Office of a Justice of the Court of _____ and that you will do equal Law and Execution of right to all People, poor and rich after the Laws and Usage of this Province: And in such cases as the Law does especially provide to be relieved in Equity, there to proceed according to Equity and good Conscience, without having regard to any person. So help you God.

Which before recited Oath shall also be administred as aforesaid unto the Justices that shall be appointed and commissioned, for the respective Courts aforesaid from time to time, before their entering upon the Execution of their Office.

General Sessions of the Peace.

ACTS and LAWS,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts-Bay* in *New-England* : Begun and Held at *Boston* the Thirty-first Day of *May*, 1699.

An Act for Holding of Courts of General Sessions of the Peace, and ascertaining the times and places for the same.

BE it Enacted and Ordained by His Excellency the Governour Council and Representatives in General Court Assembled, and by the Authority of the same, That there shall be held and kept in each respective County within this Province yearly, and in every year at the times and places in this Act hereafter mentioned and expressed, *A Court of General Sessions of the Peace*, by the Justices of the Peace of the same County, as so many of them as are or shall be limited in the Commission of the Peace. Who are hereby Impowred to hear and determine all matters relating to the Conservation of the Peace, and punishment of Offenders, and whatsoever is by them cognizeable according to Law: And to give Judgment, and award Execution therein.

Their power.

And be it further Enacted by the Authority aforesaid, That the times and places for the holding and keeping the said Courts of General Sessions of the Peace within the respective Counties shall be as followeth. *That is to say*, For the County of *Suffolk*, at *Boston*, on the first *Tuesdays* in *July*, *October*, *January*, and *April* : For the County of *Essex*, at *Salem*, on the last *Tuesdays* in *June*, and *December* ; at *Newbury*, on the last *Tuesday* in *September* ; and at *Ipswich*, on the last *Tuesday* in *March* : For the County of *Middlesex*, at *Cambridge*, on the Second *Tuesday* in *September*, at *Charlittown*, on the Second *Tuesday* in *December* and *March*, and at *Concord*, on the Second *Tuesday* in *June* : For the County of *Plimouth*, at *Plimouth*, on the Third *Tuesdays* in *September*, *December* and *June*, and on the First *Tuesday* in *March* : For the County of *Barnstable*, at *Barnstable*, on the first *Tuesdays* in *July*, *October*, *January*, and *April* : For the County of *Bristol*, at *Bristol*, on the Second *Tuesdays* in *July*, *October*, *January* and *April* : For the County of *York*, at *Wells*, on the First *Tuesdays* in *July* and *October*, and at *York*, on the First *Tuesdays* in *January*, and *April* : For the County of *Hampshire*, at *Springfield*, on the First *Tuesday* in *September*, and Third *Tuesday* in *May*, and at *Northampton*, on the First *Tuesdays* in *December* and *March* : For *Dukes County* at *Edgar-Town*, on the First *Tuesday* in *October*, and on the first *Tuesday* in *March* ; and for the Island of *Nantuckett*, at said Island, on the First *Tuesday* in *October*, and on the last *Tuesday* in *March* yearly, and in every year from time to time.

The times & places for holding a Court of General Sessions of the Peace in the several Counties.

And be it further Enacted by the Authority aforesaid, That it shall and may be lawful, for any person agrieved at the Sentence of the Justices in any Court of General Sessions of the Peace, to make his appeal from such Sentence (the matter being originally Heard and Tryed in said Court) unto the next Court of Assize and General Goal Delivery to be Held within or for the same County, there to be finally issued.

Appeal to the Court of Assize.

Provided, That no Appeal shall be granted, unless it be claimed at the time of declaring the Sentence, and the Appellant enter into Recognizance, with two sufficient Sureties within the space of two hours next after, in a reasonable Sum for his personal appearance at the Court Appealed to, and prosecution, &c.

Appellant to give Security for prosecution, &c.

General Sessions of the Peace.

141

on of his Appeal there with effect; and to abide and perform the Order or Sentence of said Court thereon, and to be of the good behaviour in the mean time. And the Party Appealing is to remain in Custody of an Officer, until he shall have given such Security. And the Officer not to be allowed above *Twelve pence* an hour for his time and attendance.

Provided also, That every such Appellant do file the Reasons of his Appeal in the Clerks Office of the Court appealed unto, seven days before the day of the Sitting of said Court; and also at his own Cost, do take out and present unto the Court, an attested Copy of the Sentence, and likewise attested Copies of all the Evidences upon which the same was grounded. And the Appellant shall pay the like Fee for the entering of his Appeal in the Court appealed to, as is by Law required, for Entry of an Action in a Civil Cause, and the like Fee to the Jurors, that shall try the same.

Reasons of Appeal to be filed seven days before the sitting of the Court appealed to.

And be it further Enacted by the Authority aforesaid, That in convenient time before the Sitting of the said Court of General Sessions of the Peace in each respective County, the Clerk of the Peace in such County shall issue out Warrants directed to the Constables of the several Towns within the same County, or the most principal of them. Requiring them to Assemble the Freeholders and other Inhabitants of their Town qualified as in and by His Majesties Royal Charter is directed, to Elect and Choose so many good and lawful men of said Town or Districts thereof alike qualified as aforesaid, as the Warrant shall direct, to Serve as Jurors at such Court. And the Constable shall Summon the persons so Chosen to attend accordingly at the time and place appointed; and make timely return of his Warrant unto the Clerk that granted the same, on pain that every Constable failing of his duty therein, shall forfeit and pay unto the County-Treasurer for the use of the County, a Fine not exceeding *Five Pounds*, nor less than *Forty Shillings*, at the discretion of the Justices of such Court: Unless such Constable so failing of his duty as aforesaid, shall reasonably make a reasonable excuse unto the Justices of said Court for his default and the same be allowed of by them.

Jurors how to be holden and Summoned.

Penalty on Constables neglecting to make their return.

And if by reason of Challenge or otherwise there do not appear a sufficient number of good and lawful men to make up the Petty Jury, or Juries to serve at the said Court: Then and in such case the said Jury or Juries shall be filled up, *de talibus circumstantibus*, to be returned by the Sheriff; And where the Sheriff is concerned, or related to either of the parties in any case, to be returned by the Coroner.

Sheriff to return Jurors in case there fail of a sufficient number

And be it further Enacted by the Authority aforesaid, That it shall and may be lawful for any person sentenced for any Criminal Offence, by one or more Justices of the Peace out of Sessions, to appeal from such Sentence unto the next Court of General Sessions of the Peace to be held within the same County. Every such Appellant recognizing with Sureties in a reasonable Sum not exceeding *Five Pounds* for his appearance at the Court appealed to, and to prosecute his appeal there with effect, and to abide and perform the Order or Sentence of said Court thereon, which is to be final: and in the mean time to be of the good behaviour. And every such Appellant shall attend the same rules and method for bringing forward his Appeal at the said Court of General Sessions of the Peace as before in this Act is provided in case of Appeal from said Court, to the Court of Assize and General Goal Delivery. And shall pay the like Fee for entering of his Appeal as for the entering of a Civil Action in the Inferiour Court of Common Pleas; and the like Fee to the Jurors as is paid them in the said Inferiour Court.

Appeal from the Sentence of one or more Justices of the Peace.

Inferiour Courts.

An Act for the Establiſhing of Inferiour Courts of Common Pleas in the ſeveral Counties of this Province.

Conſtitution
and power.

BE it Enacted and Ordained by His Excellency the Governour, Council and Representatives in General Court Aſſembled, and by the Authority of the ſame, That there ſhall be Held and Kept in each reſpective County within this Province, and at the Iſland of Nantuckett within the ſame, yearly and every year, at the times and places in this Act hereafter mentioned and expreſſed, *An Inferiour Court of Common Pleas*, by four ſubſtantial perſons to be Appointed and Comiſſioned as Juſtices of the ſame Court in each County, Any three of whom to be a *Quorum* for the holding of ſaid Court, who ſhall have Cognizance of all Civil Actions ariſing or hapning within ſuch County, tryable at the Common Law, of what nature, kind or quality ſoever: And are hereby impowred to give Judgment therein, and award Execution thereupon.

Times and
places for
holding Infe-
riour Courts.

And be it further Enacted by the Authority aforeſaid, That the times and places for the holding and keeping the ſaid Inferiour Court of Common Pleas within the ſeveral and reſpective Counties ſhall be as followeth. *That is to ſay*, For the County of Suffolk, at *Boston*, on the firſt *Tueſdays* in *July*, *October*, *January*, and *April*: For the County of *Essex*, at *Salem* on the laſt *Tueſdays* in *June* and *December*; at *Newbury* on the laſt *Tueſday* in *September*; and at *Ipswich* on the laſt *Tueſday* in *March*: For the County of *Middleſex*, at *Cambridge* on the ſecond *Tueſday* in *September*; at *Charlſtown* on the ſecond *Tueſday* in *June*: For the County of *Plymouth*, at *Plymouth* on the third *Tueſdays* in *September*, *December* and *June*, and on the firſt *Tueſday* in *March*: For the County of *Barnſtable*, at *Barnſtable* on the firſt *Tueſdays* in *July*, *October*, *January*, and *April*: For the County of *Briſtol*, at *Briſtol* on the ſecond *Tueſdays* in *July*, *October*, *January* and *April*: For the County of *York*, at *Wells* on the firſt *Tueſdays* in *July* and *October*, and at *York* on the firſt *Tueſdays* in *January* and *April*: For the County of *Hampſhire*, at *Springfield* on the firſt *Tueſday* in *September*, and third *Tueſday* in *May*, and at *Northampton* on the firſt *Tueſdays* in *December* and *March*: For *Dukes County*, at *Edgar Town*, on the firſt *Tueſday* in *October*, and on the firſt *Tueſday* in *March*: And for the Iſland of *Nantuckett*, at ſaid Iſland on the firſt *Tueſday* in *October*, and on the laſt *Tueſday* in *March* yearly, and in every year from time to time.

Writs to iſſue
out of the
Clerks Office

Coroner.

to run thro'
the Province

and to be
Summons,
Capias or
Attachment,

And be it further Enacted by the Authority aforeſaid, That all Proceſſes and Writs for the bringing any Cauſe or Suit to Tryal in any of the ſaid Inferiour Courts, ſhall iſſue out of the Clerks Office of ſuch Court in His Majesties Name, under the Seal of the ſaid Court, to be Signed by the Clerk, and directed to the Sheriff or Marſhal of the County, his Under-Sheriff or Deputy. And if ſuch Proceſs or Writ be againſt the Sheriff or Marſhal, to be directed to the Coroner of ſuch County, who is hereby impowred to execute the ſame. And where the Sum ſued for is under *Ten Pounds*, may be alſo directed to the Conſtables of the Town. And Writs as well original as judicial iſſuing out of the Clerks Office of the ſaid Court, ſhall run into any County and place within this Province, and be there executed by the Officer or Officers of ſuch County to whom they are directed. And all proper Original Proceſſes in the ſaid Court, ſhall be Summons, Capias or Attachment, which ſhall be Served and Executed fourteen days before the day of the Sitting of the Court where ſuch Writ or Proceſs is returnable.

Provided

Superiour Courts.

143

Provided, That no Action under the value of *Forty Shillings* shall be brought into any of the said Inferiour Courts, unless where Freehold is concerned, or upon Appeal from a Justice of Peace.

And be it further Enacted by the Authority aforesaid, That in convenient time before the Sitting of the said Inferiour Court in each respective County; The Clerk of such Court shall issue out Warrants directed to the Constables of the several Towns within the same County, or the most principal of them. Requiring them to assemble the Freeholders and other Inhabitants of their Town qualified as in and by His Majesties Royal Charter is directed, to Elect and Choose so many good and lawful men of said Town or Districts thereof alike qualified as aforesaid, as the Warrant shall direct, to Serve as Jurors at such Court, and the Constable shall Summon the persons so Chosen, to attend accordingly at the time and place appointed, and make timely return of his Warrant unto the Clerk that granted the same: On pain that every Constable failing of his duty therein, shall forfeit and pay unto the County Treasurer for the use of the County, a Fine not exceeding *Five Pounds*, nor less than *Forty Shillings*, at the discretion of the Justices of such Court, unless such Constable so failing of his duty as aforesaid, shall seasonably make a reasonable Excuse unto the Justices of said Court for his default, and the same be allowed of by them.

Clerks to
issue out
Warrants.

And if by reason of Challenge or otherwise there do not appear a sufficient number of good and lawful men to make up the Petty Jury or Juries to Serve at the said Court, then and in such case, the said Jury or Juries shall be filled up *de talibus circumstantibus*, to be returned by the Sheriff: And where the Sheriff is concerned or related to either of the Parties in any Case, to be returned by the Coroner.

An Act for the Establishing a Superiour Court of Judicature, Court of Assize, and General Goal Delivery with- in this Province.

Be it Enacted & Ordained by His Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That there shall be a Superiour Court of Judicature, Court of Assize, and General Goal Delivery over this whole Province, to be Held and Kept Annually at the respective times and places in this Act hereafter mentioned and expressed by one Chief Justice, and four other Justices to be Appointed and Commissionated for the same. Any three of whom to be a *Quorum*, who shall have Cognizance of all pleas, real, personal or mixt, as well all pleas of the Crown, and all matters relating to the Conservation of the Peace, and punishment of Offenders; as Civil Causes or Actions between party and party, and between His Majesty and any of His Subjects, whether the same do concern the Realty, and relate to any Right of Freehold and Inheritance, or whether the same do concern the personalty, and relate to matter of Debt, Contract, Damage or personal Injury; and also all mixt actions which concern both realty and personalty brought before them by Appeal, Review, Writ of Error, or otherwise as the Law directs. And generally of all other matters as fully and amply to all intents and purposes whatsoever, as the Courts of Kings Bench, Common Pleas and Exchequer within His Majesties Kingdom of England, have, or ought to have. And are hereby Impowred to give Judgment therein, and award Execution thereupon.

Superiour
Court of Ju-
dicature and
Court of
Assize,

Constitution

Power.

Superiour Courts.

Times and
Places for
holding Superiour Courts.

And be it further Enacted by the Authority aforesaid, That the times and places for the holding and keeping of the said Superiour Court of Judicature, Court of Affize and General Goal Delivery, shall be as followeth: That is to say, Within and for the County of Suffolk, at *Boston* upon the first *Tuesday* in *November* and *May*. Within and for the County of *Essex*, at *Salem*, on the second *Tuesday* in *November*, and at *Ipswich*, on the third *Tuesday* in *May*. Within and for the County of *Middlesex*, at *Cambridge*, on the last *Tuesday* in *July*, and at *Charlstown*, on the last *Tuesday* in *January*. Within and for the County of *Hampshire*, at *Springfield*, on the second *Thursday* in *August*. Within and for the County of *York*, at *Kittery*, on the *Thursday* in the week next before the time herein set and appointed for the Sitting of the said Superiour Court at *Ipswich*. For the Countys of *Plymouth*, *Barnstable* and *Dukes County*, at *Plymouth*, on the last *Tuesday* in *March*: And within and for the County of *Bristol*, at *Bristol*, on the second *Tuesday* in *September* yearly, and in every year from time to time.

Nantucket.

And be it further Enacted by the Authority aforesaid, That there shall be held and kept a Superiour Court of Judicature, Court of Affize and General Goal Delivery, for the hearing and determining of any Capital Offence or Offences that shall arise or happen within the Island of *Nantucket*, at such place within the same; and at such time as the Governour and Council advising with the Justices of said Court shall from time to time direct and appoint, according as occasion may be.

Provided nevertheless, That the Tryal of all matters and causes by Appeal from the Court of General Sessions of the Peace, or Inferiour Court of Common Pleas respectively within the said Island of *Nantucket*, or by Writ of Error relating to any Judgment given in the said Inferiour Court shall be in the Superiour Court of Judicature, Court of Affize and General Goal Delivery, to be held within the Counties of *Suffolk* or *Middlesex*.

Process to be Served 14 days before the Courts Sitting

And be it further Enacted by the Authority aforesaid, That all Processes and Writs issuing out of the said Superiour Court of Judicature to be held within or for any County within this Province, shall be in His Majesties Name, under the Seal of the said Court, and Signed by the Clerk thereof, and shall be directed to the Sheriff, his Under-sheriff or Deputy, or other proper Officers, who are hereby Impowred and required to observe and execute the same: And shall run into any County or Place within this Province, and be there Executed by the Officer or Officers of such County or place to whom they are directed. And all Processes for the Tryal of Civil Causes in the said Court upon Review or in other Cases which by Law may be originally there brought shall be Served and Executed fourteen days before the day of the Sitting of the Court where such Writ or Process is returnable.

Jurors how to be chosen.

Penalty on Constables not returning their Warrants for choice of Jurors.

And be it further Enacted by the Authority aforesaid, That in convenient time before the Sitting of the said Superiour Court of Judicature, Court of Affize and General Goal Delivery in each respective County, the Clerk of said Court shall issue out Warrants directed to the Constables of the several Towns within the County or Jurisdiction of said Court, or the most principal of them. Requiring such Constables to assemble the Freeholders and other Inhabitants of their Town qualified as in and by His Majesties Royal Charter is directed, to Elect and Choose so many good and lawful men of said Town or Districts thereof, alike qualified as aforesaid, as the Warrant shall direct, to Serve as Jurors at said Court: And the Constable shall Summon the persons so chosen, to attend accordingly at the time and place appointed, and make timely return of his

Proceedings in Courts of Justice.

145

his Warrant unto the Clerk that granted the same ; On pain that every Constable failing of his duty therein, shall forfeit and pay unto the County Treasurer for the use of the County, a Fine not exceeding *Five Pounds*, nor less than *Forty Shillings*, at the discretion of the Justices of said Court. Unless such Constable so failing of his duty as aforesaid, shall seasonably make a reasonable Excuse unto the Justices of said Court for his default, and the same be allowed of by them.

And if by reason of Challenge or otherwise, there do not appear a sufficient number of good and lawfull men to make up the Petty Jury or Juries to Serve at the said Court : Then and in such case the said Jury or Juries shall be filled up *de talibus circumstantibus*, to be returned by the Sheriff, and where the Sheriff is concerned or related to either of the parties in any Case, to be returned by the Coroner.

Sheriff to return Jurors in case there do not appear a sufficient number.

An Act for the Regulating and Directing the Proceedings in the Courts of Justice Established within this Province.

WHEREAS by two several Acts made & passed at this present Session of the General Assembly, one Entituled, An Act, For the Establishing a Superiour Court of Judicature, Court of Assize, and General Goal Delivery within this Province : And the other Entituled, An Act, For the Establishing of Inferiour Courts of Common Pleas in the severall Counties of this Province. Power is given to the Justices to be appointed and commissioned for the said respective Courts, to hear and determine such matters and causes as by the said Acts are made cognizable in the same, and to give Judgment therein, and award Execution thereupon.

Therefore for the better Regulating and Directing the Proceedings in the said respective Courts,

Be it Enacted by His Excellency the Governour, Council and Representatives Convened in General Assembly, and by the Authority of the same, That it shall be in the liberty of the party agrieved at any Judgment given in any Inferiour Court of Common Pleas within this Province, to Appeal therefrom unto the next Superiour Court of Judicature, Court of Assize and General Goal Delivery, to be held within or for the same County, And upon Judgment given at the said Superiour Court of Judicature upon such Action of Appeal, it shall be lawful for either party, Appellant or Defendant to Review such Action by Process out of the said Superiour Court; or otherwise the party agrieved at any Judgment given in any Inferiour Court of Common Pleas may by a new Process Review the said Case in the same Court where it was first Tryed ; and after Judgment given upon such Tryal by Review, the party agrieved at the same Judgment may Appeal therefrom unto the next Superiour Court of Judicature, to be holden for or within the same County, Or may bring his Writ of Error for a new Tryal of the said Case in the said Superiour Court of Judicature. And in all Cases wherein the Plaintiff or Defendant shall have obtained the number of three Judgments, it shall be a final Issue and Determination of such Case. And every Action of Review shall be brought within the space of three years. And no Civil Action shall be originally brought into the Superiour Court of Judicature, unless in cases where the King is concerned.

Appeal from the Inferiour Court.

Review in the Superiour Court.

Review in the Inferiour Court & Appeal thereupon or Writ of Error.

Three judgments given for one party to be a final Issue.

Review to be brought in 3 years.

Proceedings in Courts of Justice.

Appellant
Etc. to give
Security.

And be it further Enacted and Provided by the Authority aforesaid, That the party appealing or bringing any Writ of Error as aforesaid, shall first enter into Recognizance with sufficient Sureties if upon Appeal, before one or more of the Justices of the Court appealed from in a reasonable Sum, that he will prosecute such Appeal with effect, and if upon Writ of Error before one or more of the Justices of the Superior Court of Judicature, in the value of the Debt or Damage recovered, that he will prosecute such Writ of Error with effect, and abide the Order of the Court thereupon.

No Appeal
to be admit-
ted after the
Courts sitting
nor Executi-
on granted.
the Appellant
to bring the
whole case.

Provided also, That no Appeal shall be admitted after the time of the Courts Sitting, nor after Execution granted; and that the party appealing, or bringing any Action of Review as aforesaid, shall bring attested Copies of the whole Case unto the Court Appealed to, or where such Action of Review is to be Tried; where each party shall be allowed the benefit of any new and further Plea and Evidence. And that every Appellant as aforesaid, shall also give in a Declaration, briefly setting forth the reasons of his Appeal unto the Clerk of the Court appealed from fourteen days before the day of the Sitting of the Court where such Appeal is to be Tried. Which Declaration or reasons of Appeal shall have a signification written thereupon, and Signed by such Clerk of the time of his Receipt of the same; and a true Copy thereof shall be then taken by the said Clerk, to be filed in his Office. And the said Clerk shall thereupon make up the Original Declaration or Reasons of Appeal under the Seal of the Court, and deliver the same to the Appellant, by him to be transmitted unto the Court where such Appeal is to be Tried. And such Appellant shall pay the Clerk for Copying the said Reasons of Appeal, to be filed in his Office as aforesaid.

Reasons of
Appeal to be
filed 14 days
before the
Court.

Execution
not to be
granted with-
in 24 hours
after judg-
ment.

And be it further Enacted by the Authority aforesaid, That Execution in any Case shall not be granted until the expiration of twenty four hours next after Entering up of Judgment, and that no person Imprisoned upon mean Process, shall be held in Prison upon such Process above the space of thirty days next after the rising of the Court where the same shall be returned, notwithstanding Judgment thereupon recovered; unless such person be continued there by having his Body taken in Execution. Nor shall the Prison Keeper discharge any such Prisoner having Judgment entred up against him, within the said space of thirty days after the Courts rising to the intent his Body may be taken in Execution, but by special Order of the Party at whose Suit he stands committed, signified in Writing under his hand.

Justices of the
Courts to
chaner For-
feitures of
Bonds.

And be it further Enacted by the Authority aforesaid, That the Justices in any of the said Inferiour Courts of Common Pleas, or Superior Court of Judicature respectively where the forfeiture of any Penal Bond shall be found, shall be, and are hereby Impowred in the Entering up of Judgment in such Case to chaner the same unto the just Debt and Damages.

Appeal to
the King in
Council.

Saving always the liberty of Appeal unto His Majesty in Council, as by His Majesties Royal Charter in that behalf is provided.

Judgment
by default.

And be it further Enacted by the Authority aforesaid, That in case up- on any Process being duly Served, and Return thereof made into the Court where the same shall be returnable, the Defendant do not appear by himself or his Attorney, his Default shall be recorded, and Judgment Entred up against him thereupon, unless before the Jury be dismiss he shall come into Court, and move to have a Tryal, in which case he shall be admitted thereunto, first paying down unto the adverse party double the Costs he has been at so far, and the Plaintiff shall make a new Entry.

And be it further Enacted by the Authority aforesaid, That the Justices of the said Superior Court of Judicature, Court of Assize, and General Goal Delivery, the Justices of the said Inferiour Courts of Common Pleas,

Proceeding in Courts of Justice.

147

Pleas, and also the Justices of the Court of General Sessions of the Peace in each respective County within this Province, be, and hereby are respectively Impowred to appoint and settle a Clerk to officiate in each of the said several Courts for the granting of all Writs and Proceses issuing out of the same, Entering and Recording all Verdicts and Judgments that shall be therein given, and other Acts of the Court, and to do all things proper to the Clerks Office to all intents and purposes. And that the Justices of the said respective Courts be, and are hereby likewise impowred to make necessary Rules and Orders for the more orderly practising and proceeding therein. Provided they be not repugnant to the Laws of this Province. And no Summons, Process, Writ, Judgment or other Proceeding in Courts or course of Justice shall be abated, arrested or reversed upon any kind of circumstantial Errors or Mistakes where the person and case may be rightly understood and intended by the Court, nor through defect or want of form only. And all Writs, Proceses, Declarations, Indictments, Pleas, Answers, Replications and Entries in the several Courts aforesaid, shall be in the English Tongue and no other. And it shall be in the liberty of the Plaintiff or Defendant in any of the said Courts to plead or defend his own Cause in his own proper person, or with the assistance of such other as he shall procure, being a person not scandalous or otherwise justly offensive to the Court. And Attorneys Fees to be allowed at the Superiour Court of Judicature, shall be *Twelve Shillings*, and at the Inferiour Court of Common Pleas, *Ten Shillings*, and no more, and but one Attorney to be paid for in any Case.

Justices of Courts to appoint their Clerks.

No Process &c. to be abated &c. for circumstantial Errors.

Writs &c. to be in the English Tongue.

Attorneys Fee.

And be it further Enacted by the Authority aforesaid, That the Clerk of each Town respectively within this Province, as well as the Clerks of the several Courts aforesaid, may, and hereby is Impowred to Grant Summons for Witnesses in Civil Cases, directed to the party to be Summoned for Witness. Requiring him or them to appear at the said Superiour Court of Judicature or Inferiour Court of Common Pleas respectively. And if any person or persons upon whom any lawful Process or Summons shall be Served to testify, depose or give Evidence concerning any Cause or Matter depending in any of the said Superiour or Inferiour Courts, and having tendred unto him or them such reasonable Sum or Sums of Money for his or their Costs and Charges, as having regard to the distance of the places, is necessary to be allowed in that behalf, do not appear according to the tenour of the Process or Summons, having no lawful or reasonable let or impediment to the contrary. That then the party so making default, shall for every such Offence lose and forfeit *Forty Shillings*, and shall yield such further recompence to the party aggrieved according to the loss and hindrance that he shall sustain by reason of the Non appearance of the said Witness or Witnesses. The said several Sums to be recovered by the party so aggrieved, against the Offender or Offenders by Action of Debt, Bill, Plaint or Information in any of His Majesties Courts of Record, wherein no Essoign, Protection or Wager of Law to be allowed. And *Two Shillings Per Diem* shall be accounted due satisfaction to any Witness for his Travel and Expences, and no more to be allowed in Civil Causes, and if such Witness live within three miles of the place of the Courts sitting whereto he is Summoned, and be not to pass any Ferry, then *One Shilling and Six pence per Diem* shall be accounted sufficient.

Town Clerks to grant Summons for Witness's.

Penalty for Witness's non appearance.

their Allowance.

And be it further Enacted, That no person Serving as a Justice, Juror, Ceremony Witness or otherwise shall be obliged to use any other Ceremony in taking in Swearing of their respective Oaths, than lifting up the hand as has been accustomed. Any Law, Usage or Custom to the contrary notwithstanding.

Reviving of Actions, &c. *Militia.*

An Act for Reviving of Actions and Processes, &c. depending in the several Courts of Justice within this Province, and discontinued by the Disallowance and Repeal of the Act, *For Establishment of the said Courts.*

BE it Enacted by His Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That all and all manner of Pleas, Writs, Actions, Suits, Plaints, Process, Precepts, Recognizances, Indictments, Presentments or other things whatsoever that were or shall be returnable, had or shall have day or days in any of the Courts of Justice lately Established within this Province, Verdicts, Judgments and other matters and things therein depending, not fully made up, determined or given, shall stand continued, and be revived, and are hereby continued, revived and adjourned unto, and may be pleaded, heard and proceeded upon at the next Superiour Court of Judicature, Court of Assize, and General Goal Delivery, Inferiour Court of Common Pleas, or Court of General Sessions of the Peace respectively, to be holden for and within the several Counties, where the same were or shall be returnable, had day or days, or are depending and undetermined.

And that all Parties that had day by any Pleas, Writs, Bills, Actions, Suits, Plaints, Process, Precepts or other thing or things whatsoever, at or in any of the said Courts discontinued by means as aforesaid, shall respectively appear at such next Court to be holden in or for the same County under the penalty of Forfeiting any Bonds, Obligations, or Recognizance for the appearance of the said Parties, or under any other penalty that might have incurred upon the said Parties for not appearing at any of the Courts discontinued as aforesaid, if the same had been holden and kept.

Provided nevertheless, That where it happens any person or persons being principals, that were under Bond, Obligation or Recognizance for appearance at the Superiour Court of Judicature, Court of Assize and General Goal Delivery, Inferiour Court of Common Pleas or Court of General Sessions of the Peace within any County of this Province, discontinued as aforesaid, and since that are removed and gone Beyond Sea, or out of this Province, and shall not be returned before the Sitting of such next Court to be held in or for the same County. It shall be in the power of the Justices of such Court upon motion made on that behalf, and they are accordingly to allow a continuance of any such Bond, Obligation or Recognizance to such further time as shall be thought necessary, that no persons concerned may be surprized, or have advantage unreasonably taken against them.

An Act in Addition to the Act,
For Regulating the Militia.

WHEREAS in and by the Act Entituled, *An Act, For Regulating the Militia, amongst other things therein contained: It is Enacted, That Drums, Drummers, Trumpets, Trumpeters, Colours and Banners be by the Commission Officers of each Troop or Company, provided at the Charge of the respective Com.*

Militia. Infectious Sickneses.

149

Companies and Troops where they are not already provided, and the Fines will not reach to procure the same. But no direction being given by the said Law how or in what manner such Charge shall be Raised and Levied upon such Company or Troop.

Be it therefore Enacted by His Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That when and so often as the Fines arising in any Military Company or Troop shall not be sufficient to answer the Charge of providing suitable Drums, Trumpets, Colours and Banners, and the support of Drummers, or Trumpeters. The Commission Officers of such Company or Troop respectively are hereby Authorized and Impowred to assess so much as shall be wanting and necessary for that use and occasion, upon their Company or Troop; and to proportion the same in the most equal manner they may, upon all the persons Entred in the Roll of such Company or Troop, and liable to attend any Military Duty in the same, having due regard unto persons ability for Estate and other Circumstances. And where there be Sons and Servants, their Parents or Masters to pay for them if they cannot do it themselves. And the Assessment so made being Signed by the Commission Officers, shall be committed unto the Clerk of such Company or Troop, together with a Warrant from the Chief Officer of the same, requiring said Clerk to collect and pay in the same unto himself, to be employed and disposed to the use aforesaid: And to make distress of all persons that shall neglect or refuse to pay their proportion thereof. And such Clerk is hereby Impowred and Required to execute such Warrant accordingly, and to pay in said Monies unto his Chief Officer. And if any fail in their bestriment and duty aforesaid, they shall be liable to give account to their Superiour Officers from time to time.

Commission Officers to make Assessment for Drums, Trumpets, &c.

An Act for the better preventing of the Spreading of Infectious Sickneses.

WHEREAS Ships and other Vessels arriving within this Province, from parts beyond the Seas, are oftentimes during their Passage, visited with the Small Pox, and other Infectious Sickneses: Or come from places where such Sickneses are prevailing and Epidemical, bringing with them Cotton-Wool, or other Commodities, in which the Contagion is liable to be conveyed, and has in time past proved to be of pernicious and fatal consequence to the People of this Province, the Masters or Commanders of such Ships or Vessels, not taking that due care as in such case they ought to give Information thereof, before they bring their Ships into Harbour, and have Landed their Passengers or Goods.

For Prevention of which Mischief for future, and that this Province by the Blessing of God, may be preserved from the coming in and spreading of contagious mortal Sickneses.

Be it Enacted by His Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That no Master or Commander of any Ship or Vessel arriving to any Port or Harbour within this Province, in which Ship or other Vessel, any person, Passenger or Seaman upon their Passage shall be visited with the Small Pox, or any other contagious Sicknes; Or shall come from

Suppressing of Vagabonds, &c.

Ships visited with Sickness or coming from any place visited with Sickness not to come above the Castle &c without Licence.

from any Port or Place where any such Sickness is Epidemical and prevailing, may presume to Sail, or bring his Ship or Vessel within or above the Castle or Fort (where any such is) or within the space of half a mile next unto any Peer, Wharf, or Landing place in such Harbour where no Fortification is, without Licence first had for so doing from the Governour or Commander in Chief of this Province for the time being, or from the two next Justices of the Peace, if such Harbour lye more than ten miles distant from the place of the Governours Residence; Nor shall permit or suffer any of his Passengers or Seamen to be Landed or brought on Shore, or any person or persons to come on Board without Licence as aforesaid first had and obtained for the same, on pain that every Master or Commander of any Ship or other Vessel offending against this Act, shall forfeit unto His Majesty the Sum of One Hundred Pounds, for and towards the Support of the Government of this Province, to be recovered by Action, Bill, Plaint or Information in any of His Majesties Courts of Record within the same, wherein no Essoign, Protection or Wager of Law to be allowed.

Captain of the Castle &c. to enquire of the health of Ships.

And to the intent, That all Masters or Commanders of Ships or other Vessels not belonging to this Province, may be duly Informed of their duty by this Act required, the Captain of the Castle, and the Chief Officer of every other Fort or Fortification in any Port or Harbour within the same, are hereby Comanded and Enjoyned, to examine and enquire of the Health of all Ships and other Vessels arriving to the same, and to acquaint the Masters or Commanders thereof, of the import of this Act.

Penalty for any passengers or Seaman to come on shore without Licence.

And Be it further Enacted by the Authority aforesaid, That if any Passengers or Seamen arriving in any Ship or Vessel, visited with the Small Pox or other Pestilential or Infectious Sicknesses upon her Voyage, shall presume to come on Shore before Licence had as aforesaid, It shall and may be lawful to and for any Justice of the Peace to require or send such person or persons with their Cloathing and Bedding on Board such Vessel again, or to confine them to such other place or places as such Justice shall judge most suitable for preventing of Infection, and all the Costs and Charges arising thereupon, to be answered and paid by the Passenger or Seaman so offending as aforesaid. Who also shall forfeit the Sum of Twenty Pounds to the use aforesaid, and to be recovered in manner as aforesaid.

An Act for the Suppressing and Punishing of Rogues, Vagabonds, common Beggars, and other leud, idle & disorderly persons; And also for setting the Poor to work.

House of Correction to be provided in each County.

BE it Enacted by His Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That there shall be Erected, Built or otherwise provided in every County within this Province, at the Charge of such County, a fit and convenient House or Houses of Correction (where such a House is not already provided) with convenient Accommodation thereunto adjoining and belonging, to be used and employed for the keeping, correcting and setting to work of Rogues, Vagabonds, common Beggars, and other leud, idle and disorderly persons: And until such House or Houses of Correction be Erected, built or otherwise provided, the common Prison in each County may be made use of for that purpose. And

Suppressing of Vagabonds, &c.

151

And be it further Enacted by the Authority aforesaid, That the Justices of Peace in every County at the General Sessions of the Peace, to be holden for the same County, from time to time, may nominate and appoint at their Will and Pleasure, an honest fit person to be the Master of such House of Correction : And it shall and may be lawful to and for the said Court, or any one Justice of the Peace out of Court to send and commit unto the said House, to be kept and governed according to the Rules and Orders thereof, All Rogues, Vagabonds, and idle persons going about in any Town, or County, begging, or persons using any subtle craft, juggling or unlawful games or plays, or feigning themselves to have knowledge in Physiognomy, Palmestry, or pretending that they can tell Destinies, Fortunes, or discover where lost or stol'n Goods may be found, common Pipers, Fiddlers, Runaways, stubborn Servants or Children, common Drunkards, common Night walkers, Pillers, wanton and lascivious persons, either in speech or behaviour, common Railers, or Brawlers, such as neglect their Callings, mispend what they earn, and do not provide for themselves or the support of their Families ; upon due conviction of any of the Offences or Disorders aforesaid.

Justices in their Sessions to appoint a Master of the house of Correction.

And be it further Enacted by the Authority aforesaid, That the Master of such House of Correction to be appointed as aforesaid, shall have power and authority, and shall set all such Rogues, Vagabonds, beggars, and other leud, idle and disorderly persons as aforesaid, that shall be duly sent or committed unto his custody, to work and labour (if they be able) for such time as they shall continue and remain in the said house ; and to punish them by putting Fetters or Shackles upon them, and by moderate Whipping, not exceeding Ten Stripes at once, which (unless the Warrant of Commitment shall otherwise direct) shall be inflicted at their first coming in, and from time to time in case they be stubborn, disorderly or idle, and do not perform their Task, and that in good condition according as they shall be reasonably stinted ; or to a-bridge them of their food, as the cause shall require, until they be reduced to better Order.

Rogues, Vagabonds &c. to be set to work.

And punished by Whipping &c.

And for the better Support and Governing of the said House of Correction, and for employing of such persons as shall be committed to the same.

Be it further Enacted by the Authority aforesaid, That the Justices of each County in their Court of General Sessions of the Peace, shall be, and hereby are authorized and impowred to make necessary Rules and Orders from time to time, as they shall find occasion, for the ruling, governing and punishing of such persons so to be committed, agreeable to the Laws of this Province. And such Rules and Orders as shall be made in that behalf by the Justices in their General Sessions, shall be of force and be duly performed and put in Execution.

Justices in their Sessions to make orders for governing the house of Correction.

And be it further Enacted by the Authority aforesaid, That when any person or persons shall be committed to the said House of Correction from any Town or Towns in this Province, the Select men of such Town to which said person or persons belongs, shall take care, and at the cost and charge of said Town shall provide, as there shall be occasion suitable materials, such as shall be necessary and convenient for the keeping such person or persons so committed to work during his or their abode there, and shall deliver the same to the Master or Keeper of said House, to be improved for that end. And where any stubborn Children or Servants that are under the immediate Care and Government of their Parents and Masters, shall be Committed to said House, the Parents or Masters

How persons sent to the house of Correction are to be supported.

House of Correction & Work-house.

sters of such Children or Servants, (if able) shall take care to provide such things as may be necessary for the keeping of them to work and labour during their abode in said House. And no person to be Committed to the said House of Correction that is able to work, shall in any sort be chargeable to the County for any allowance either at their bringing in, going forth, or during the time of their abode there, but shall only be allowed for their labour and work, the Sum of *Eight pence* out of every *Shilling* they shall Earn, and the Over-plus of such their Earnings to be unto the Master or Keeper of the said House to account for: And if such persons are Masters or Heads of Families, then and in such case the whole profit and benefit of their labour, or so much thereof as the Court of General Sessions of the Peace shall think necessary and direct, shall be for the relief and support of such persons and their Families. And if any person or persons to be committed to the said House, shall be unable to work, or be weak or sick, then to be relieved by the Master or Keeper of such House, who shall be again reimburs'd what he shall so necessarily Expend for the relief of such person or persons by the Select-men of such Town to which said person doth belong, and the Select-men to assess the same upon the Inhabitants of such Town or Precinct: Except the person or persons so committed to said House, being unable to work, or being weak or sick, were at the time of his, her or their Commitment in their Minority, and under the care of their Parents or Masters: Then and in every such case, the Parents or Masters of such person or persons shall Reimburse what necessary Charges the Master or Keeper of the said House of Correction shall necessarily Expend for their Relief.

Master of the house of Correction to be paid for his care &c.

And be it further Enacted by the Authority aforesaid, That the Master or Keeper of the said House of Correction shall for his Care, Labour & Service in looking after the person or persons that from time to time shall be committed to his care and custody, & also for relieving any person or persons that shall happen to be Weak or Sick in his custody, have such reasonable allowance and satisfaction made him, by the Parents or Masters of such person or persons so committed, if under their immediate Care and Government, or otherwise by the Town to which said person or persons do belong, as the Justices at the Court of General Sessions of the Peace for such County shall direct and appoint, if the Earnings of such person or persons be not sufficient to discharge the same, over and above what is allowed them out of their Earnings for their relief.

And to keep an account of the earnings of those committed to his custody.

And the Master or Keeper of every such House, shall keep an exact Account of all Profits & Earnings that shall be made by the labour of those under his Custody from time to time, and present the same (upon Oath if required) unto the Justices of the same County, at their General Sessions of the Peace, out of which Earnings the said Master or Keeper of said House shall have his Allowance; and if any Over-plus be, it shall be to the Town to which said person or persons doth belong, or to their Parents or Masters according as the circumstance of the Case may be. And the Master or Keeper of any such House of Correction that shall refuse to Account as aforesaid, or shall otherwise be negligent of his Duty required by this Act, shall be liable to such Fine or Punishment as by the discretion of the Court of General Sessions of the Peace in such County shall be awarded.

And for the better employing and setting the Poor to Work.

Be it further Enacted by the Authority aforesaid, That where there is a House already built in any Town with intent to be improved for a Work house, to set their Poor on Work, or shall hereafter be built for that

House of Correction & Work-house.

153

that purpose, and the Inhabitants of such Town shall grant a Tax or Assessment, for the raising of a Stock wherewith to provide necessary & suitable materials, tools & implements for employing & setting their poor on work at such House. The Select-men of the same Town for the time being shall proportion such Tax or Assessment upon the Inhabitants thereof in the most just & equal manner they may according to the rules and methods for the time being prescribed by Law for proportioning the Province Tax, and shall grant Warrants for collecting the same in like manner as the Law directs for the gathering of other Town Rates or Assessments: And the Justices of Peace residing in any such Town together with the Select men thereof, are hereby impowred and authorized to nominate and appoint from time to time three or more sufficient persons of their Inhabitants as a Master and Wardens, to govern, inspect & take care that all persons of the same Town employed at the said Work-house, or sent thither by any two Justices of the Peace, *Quorum unus*, to be kept to work there, be held and kept strictly to work, and that all idle and disorderly persons, and such as do not duly perform such reasonable Task or Srint as shall be set them, be punished by moderate Whipping, or setting in the Stocks. And all Stock, Materials, Tools and Implements to be raised and provided as aforesaid, shall be committed into the hands of such Master and Wardens, to be managed, used and employed according to their discretion, for the employing and setting to work all such persons as shall be under their inspection and Government. And the said Master and Wardens are also hereby impowred to demand, sue for, recover, accept, receive and take any gifts, bequests and donations that are or shall be made and given by any person or persons to the use of the poor, for and towards a Stock for such Work-house, and to employ and dispose the same accordingly; and shall once a year, or oftner from time to time, if required, render an Accompt upon Oath unto the Town, of their management, employment and disposal of all Monies or other Stock to be committed unto them, or that by any other ways or means as aforesaid, shall come to their hands, and of the profits and incomes made thereof; and shall have such reasonable allowance and recompence made unto them for their trouble, pains & service in & about this affair as the Town shall agree & order.

Select men to proportion any Assessment that may be granted by the Inhabitants of any Town, for a stock to set their poor on work.

Master and Wardens to be appointed for such work house.

their power

And all Stock to be raised or otherwise obtained as aforesaid, with the increase, profits and improvements from time to time made thereof, shall be kept intire, and applied to, and for the ends and uses before-mentioned, and for answering of the necessary Charges arising on and about the repairing and keeping of said House, and the subsisting of those that shall be there employed, and to no other use whatsoever.

All stock to be kept intire for the said works.

And be it further Enacted by the Authority aforesaid, That it shall and may be lawful to and for any two Justices of the Peace (*Quorum unus*) to send unto such Work-house to be there employed and kept to work all persons belonging to the same Town, being able of Body, that live idly or disorderly, mispend their time, or that go about begging, or receive Alms from the Town. And the Master of such House shall receive and keep them to work accordingly.

Two Justices may commit to the work-house.

An Act appointing the Sheriff to have the keeping of the Common Goal, and the Prisoners therein.

BE it Enacted by His Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That the Sheriff of each severall County within this Province,

Sheriffs keeping of Goals. Town Watches.

Sheriff to have the custody of the Goal and Prisoners therein.

to give security.

vince, have the custody, rule, keeping and charge of every of the Kings Common Goals, Prisons, and Prisoners in the same, in the County where he is Sheriff, during the time of his Office, to be held and kept by himself or his lawful Deputy or Under-keeper, for whom the Sheriff shall be answerable. And every Sheriff shall give sufficient Security at the discretion of the Court of General Sessions of the Peace in the same County, unto the Kings Majesty, for the due and faithful discharge and performance of his Office in all the parts thereof.

And for Encouragement unto the Sheriff to take and use all possible care and diligence for the safe keeping of the Prisoners that shall be committed to his custody,

Salary.

Be it further Enacted by the Authority aforesaid, That the Sheriff of every County shall have such Salary allowed him for the same, as the Justices of the Court of General Sessions of the Peace within the same County shall think fit and order, not exceeding *Thirty Pounds Per Annum* for the County of *Suffolk*, and not exceeding *Ten Pounds* a piece in each of the other Counties within the Province, to be paid out of the Treasury of such County.

An Act for Keeping of Watches in Towns.

Justices and Select men to appoint a Watch to be kept in Towns.

BE it Enacted by His Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That from time to time, when and so often as a Military Watch shall not be ordered and appointed to be kept, the Justices of Peace, together with the Select men of each Town within this Province, and in such Towns where no Justice of the Peace dwells, the Select men by themselves are hereby impowred and authorized to direct and order a suitable Watch or Watches to be set up and kept nightly within such Town, from and after nine a Clock in the Evening, until Sun rising in the Morning, and the place or places where to set the same; and also a Ward to be kept every Lords Day, and other days, as they shall think to be needful; and to appoint the numbers whereof such Watch and Ward shall consist, and the time for the beginning and continuance of the same. And the Constable or Constables of the Town, having Orders accordingly given him or them in writing, by the Justices and Select men, or the Select men only in such Towns where no Justice of Peace dwells, are hereby impowred and required from time to time to warn such Watch and Ward respectively, and to see that all persons so warned by them do attend and observe their duty in that regard, and to take care in the Warning thereof, that such Watch or Ward do not consist of all or the greater part Youths, but that some able Householdors or other sufficient persons be joyned with them. And the Constables are hereby enjoyned to give in Charge to the Watch to see that all disturbances and disorders in the night be prevented or suppressed, and to examine all persons whom they shall see walking abroad in the night after ten a Clock, of their business abroad at such season, and whither they are going, unless they be known orderly and peaceful persons; and in case they give not reasonable satisfaction therein, or are persons of ill behaviour, or justly suspected to have any unlawful intention or design, then to secure by Imprisonment or otherwise,

To be warned by the Constable.

Town Watches.

155

all such disorderly and suspicious persons to be safely kept until the morning, and then to carry them before one of the next Justices of the Peace to be Examined & Proceeded against according to the nature of their Offence as is by Law directed. And such Watchmen shall walk the Rounds in & about the principal inhabited parts within such Town, to prevent any danger by Fire, & to see that good Orders be kept, taking particular observation and inspection of all Houses and Families of Evil Fame; and shall strictly observe the Charge to be given them as aforesaid.

Houses of ill Fame to be observed.

And be it further Enacted by the Authority aforesaid, That all Male persons in each Town respectively, of the Age of Sixteen Years or upwards, being able of Body, or having Estate sufficient to Hire, shall be liable to Watch and Ward either in their own persons, or by some other sufficient person or persons in their room, when duly warned to attend the same. Except the Members of the Council, Justices of the Peace, Members of the Assembly for the time being, the President, Fellows and Students at the Colledge, Ministers, Grammar School Masters, the Sheriff of each County, the Chief Commission Officer of each Military Company and Troop for the time being, the Officers of the Governours Troop of Guards, and persons living two miles from the place where the Guard is kept.

Persons liable to watch

And be it further Enacted by the Authority aforesaid, That if any persons liable to Watch or Ward as aforesaid, being duly warned by the Constable or other person by his Appointment, shall refuse or neglect to appear, and attend their duty in that regard, either by themselves, or some other sufficient persons in their stead, and be thereof Convicted before a Justice of the Peace either by the Oath of such Constable, or other sufficient Testimony upon Oath, without a just and reasonable Excuse to be made and given for the same. Every person so offending, shall forfeit and pay to the use of the Poor in such Town, the Sum of *Five Shillings*, and have the said Sum with the Charges of prosecution levied by distress and sale of his or her Goods or Chattels, or otherwise be Committed to Prison until the same be paid. And the Constables of each Town are required from time to time to observe and perform the Orders that shall be given them as aforesaid, on pain of being Fined to the use of the Poor within such Town, not exceeding *Forty Shillings*.

Penalty for not giving their attendance when warned.

Provided nevertheless, & be it further Enacted by the Authority aforesaid, That in any Town where the Members of the Council, and the Justices of the Peace within such Town, together with the Select men thereof, or the Select men by themselves, where no Member of the Council nor Justice dwells, shall judge that a Watch may be kept in such Town more for the benefit and safety thereof in other manner than is herein before directed, the Inhabitants also agreeing to support the Charge thereof, The Justices in the Court of General Sessions of the Peace within the County where such Town does lye, upon application to them made in that behalf, are hereby impowred and authorized to direct and order the Rule for apportioning and levying of such Sum upon the Inhabitants and Residents in such Town, as shall be granted by the Town for that purpose, in such manner as they shall judge most equal and reasonable, by Poll, Estate, or both, to be applied accordingly.

Provision for keeping a Watch in another form where it may be judged better.

Cambridge Bridge.

An Act for Rebuilding the Great Bridge over Charles River in the Town of Cambridge.

WHEREAS the great Bridge over Charles River in the Town of Cambridge within the County of Middlesex, is of common use and Advantage to the greatest part of this Province, considering the publick benefit of the Colledge, and was at first by a General Contribution of the Counties of Suffolk and Middlesex Erected. The said Bridge being now gone to Decay: And forasmuch as said Town of Cambridge are not able to Rebuild the same; and for the encouragement to the new building of said Bridge.

Allowance out of the Treasury for Rebuilding said Bridge.

Be it Enacted by His Excellency the Governour, Council and Representatives in Genetall Court Assembled, and by the Authority of the same, That for and towards the Rebuilding and a new Making the great Bridge aforesaid, there shall be paid out of the Publick Treasury of this Province, the Sum of One Hundred Fifty and Three Pounds Money, (One Hundred and Three Pounds, part of a greater Sum formerly granted by the General Assembly for the use aforesaid, not being paid, to be understood and intended to be part of the aforesaid Sum of One Hundred and Fifty Three Pounds.)

And further for the use and end aforesaid.

How the further charge thereof is to be proportioned.

It is Ordained and Enacted, That there shall be paid by the County of Middlesex, the Sum of Fifty Pounds Money: And by the County of Suffolk, the like Sum of Fifty Pounds Money. And for the supplying of what shall be further necessary for the Rebuilding said Bridge, The Town of Cambridge shall pay two third parts, and the Town of Newton, shall pay one third part of the Cost and Charges. And the Justices of the Peace for the respective Counties aforesaid at the next General Sessions of the Peace, shall, and are hereby Impowred, Authorized and Required to Assess and Collect, the respective Sums aforesaid in manner and form as they Assess and Collect other County Charges; and the Select-men of the Towns aforesaid, to Assess the proportions aforesaid, as in other Town Charges.

And further for the more effectual Accomplishing the work aforesaid.

Committee to take care about rebuilding said Bridge.

It is Enacted, That Nathaniel Byfield, Esq. Major James Converse, Captain Andrew Belcher, Mr. Jonathan Remington, Mr. Thomas Oliver and Mr. Edward Jackson, shall be a Committee, who are also hereby Impowred to receive out of the Publick Treasury and of the Counties and Towns aforesaid, the respective Sum and Sums in and by this Act Granted, and to be Assessed and Collected as aforesaid; and shall according to the true intent and meaning thereof cause the said Bridge to be forthwith Erected and sufficiently Rebuilt, any Law, Custom or Usage to the contrary notwithstanding: And that after the said Bridge is Rebuilt and Finished, It shall from time to time be Repaired and Maintained at the Charge of the said Towns of Cambridge and Newton, in the proportion aforesaid.

How to be repaired and maintained afterwards,

Town Treasurer. Trade with the Indians. 157

An Act in Addition to the Act, For Regulating
of Townships, &c.

BE it Enacted by His Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That the Freeholders and other Inhabitants of each Town duly qualified to Vote in Town Affairs at the time of their Annual Meeting, for the Choice of Town Officers, shall Choose a suitable person to be Treasurer for such Town, who shall be Sworn before a Justice of the Peace, to the true and faithful discharge of his Trust, who is hereby Impowred to administer the said Oath. And such Treasurer shall, and hereby is Impowred to demand and receive all Debts Rents and Dues belonging or owing to such Town, or the poor thereof; And to Sue for, and recover the same by due process in the Law; And shall pay out such Monies according to Order from the Select men, or Overseers of the Poor, pursuant to such Instructions as they shall receive from the Town: And every such Treasurer shall annually make and render a true Account to the Town of all his Receipts and Payments: And shall have such allowance for his Service, as shall be agreed and ordered by the Town.

Town Treasurer to be annually chosen.
his Power
to Account.

An Act for giving necessary Supplies to
the Eastern Indians, and for Regulating
of Trade with them.

WHEREAS the Indians in the Eastern Parts of this Province, some time since in Hostility and Rebellion, having submitted themselves, and recognized their Subjection and Obedience to the Crown of England, have now dependance upon this Government for Supplies of Cloathing and other Necessaries. To the intent therefore that they may be furnished with the same at such easy Rates and Prices as may oblige them to adhere firmly to the English Interest.

Be it Enacted by His Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That Provisions, Cloathing and all other Supplies suitable for a Trade with the said Indians, to the value of Six Hundred Pounds, be forthwith and from time to time procured by the Treasurer and Receiver General of this Province, or such other person or persons as His Excellency the Governour, with the advice and consent of the Council, shall appoint for that purpose, and be paid for out of the Publick Treasury of this Province: And that a sufficient quantity of said Supplies be sent and lodged from time to time at His Majesties Fort Mary at Saco, to Trade with such Indians as shall come there. And at such other place and places as the Governour, with the advice of the Council, shall direct and appoint, as far as the River of St. Georges, to Trade with such Indians as shall be in those Parts: And that a sufficient quantity of said Supplies be likewise sent unto Dunstable to Trade with the Indians of Pennecook and parts thereabout, who are not to be allowed to come into any of the Towns upon or near Merrimack River to Trade, but only to Watanick, a place so called within the said Township of Dunstable. And no Trade shall be allowed in the County of Hampshire with any Indians.

Supplies for Trade with the Indians to be sent to Fort Mary at Saco. &c.

And

Regulating of Trade with the Indians.

And for the better management of the Trade with the said Indians.

Truck Masters to be appointed to manage said Trade.

Who are to keep fair Accounts, &c.

And to be Sworn.

Penalty on other persons for Trading with the Indians.

Power of Seizure.

Be it further Enacted by the Authority aforesaid, That His Excellency the Governour, with the advice and consent of the Council, do appoint a suitable person or persons to be Truck Masters to have the care and management of the Trade with the said Indians. Which Truck Masters shall have Instructions given them to Sell and Dispose of such Provisions, Cloathing and Supplies as shall be from time to time committed to them to Trade with for the best profit and advantage of the Publick that they may; So as they be sure to Underfell the French; and not to Sell any Strong Liquors to the Indians at any time, nor to trust them for any considerable matter, nor to take any considerable pledge of them, nor the forfeiture thereof at any time. And the said Truck Masters shall return and deliver unto the Treasurer or such other person or persons as shall be appointed as aforesaid, for procuring the said Supplies, all such Goods, Skins, Peltry, Castorium, and other things as shall be produced, or come to their hands by the said Trade with the Indians, or in lieu of the Goods that shall be Sold unto them; to be by the said Treasurer, or other person or persons as aforesaid, Sold and Disposed to the best advantage, and the produce thereof to be laid out in procuring such further Supplies as there may be occasion. And the said Truck Masters shall keep fair Accounts of their Trade and Dealings with the said Indians, & shall return the same from time to time to the Treasurer, or other person or persons to be appointed for procuring such Supplies as aforesaid. And such Truck Masters shall, before they enter upon the Management of the said Trade, be Sworn to be faithful therein, and to observe such Instructions as shall be given them by the Governour, with the advice of the Council from time to time, and not to Trade for any thing with the said Indians on behalf or for account of themselves or any other particular person or persons.

And be it further Enacted by the Authority aforesaid, That no person or persons whatsoever, other than those to be employed as Truck Masters as aforesaid, shall or may presume by themselves, or any other for them, directly or indirectly to Truck, Barter, Buy, Sell, Deal or Trade with any Indian or Indians in any place within this Province, to the Eastward of *Piscataqua* River or in any other place or places on or near *Merrimack* River, or *Nashaway* River. On pain that every person or persons so Trading, shall Forfeit the Sum of *Fifty Pounds*, and all such Goods as he or they shall have been Trading with or for, and the Vessel or Vessels such person or persons shall have been Trading in or with, or the value thereof. One Moiety of the said Forfeitures to be unto His Majesty, to be laid out in procuring supplies to Trade with the said Indians on account of the Province, and the other moiety to him or them that shall inform and sue for the same, in any of His Majesties Courts within this Province that shall have cognizance thereof. And the Commander or Truck Master on Board any Vessel to be improved for Trading with the Indians to the Eastward of *Piscataqua* River, shall be, and hereby is impowered to Seiz any Vessel or Vessels that shall have been Trading with the Indians, and shall be afterwards met with by him, and shall bring or send such Vessel or Vessels into some Port in order to Tryal.

And all persons that shall be employed as Truck Masters, or otherwise relating to the said Trade with the Indians, shall have and receive such Salary or Allowance for their Service therein, as the Governour and Council shall order and appoint.

Provided this Act shall continue in force for one whole year, and to the end of the Sessions of the General Assembly next after, and no longer.

F I N I S.



C	Cambridge Bridge	156
	Cask	10
	Castle	55
	Ceremony to be used in Swearing	147
	Chandlers	18 & 93
	Churches to enjoy their Priviledges &c.	21
	Clerks of Courts	
	How to be appointed	147
	their Fees	34, & 35
	to give out Eſtreat of Fines	46
	of the Inferiour Courts to	

E	Equity provided for	137
	Estates	
	Intestate	89
	Insolvent	Exec

The Table.

Execution

The Forme	III, 112
not to be granted within 24 hours after Judgment	146
nor after a year without a Scire Facias	10
An alias Execution to be granted in case	117

F

F ees	32 & 65
Fences and Fence Viewers	55 & 129
Ferries	70 & 94
Fines how to be Estreated	46
Forcib's Entry and detainer	14
Fishery	28 & 40
Forgery	14
Fornication	13
Fortune Tellers	151
Frauds and Perjury	7
French	38

G

G agers and Packers	10
Gaming in Publick houses	17
Goalers Fees	36
Goal to be in the custody of the Sheriff	153
Goods	
Stolen	13 & 120
Lost	121
Guardians how to be appointed	39

H

H arwich	68
Hawards or Field drivers	55
Highways	
how to be repaired	} 54
damage hapning through defect	
Annoyances to be removed	
Incroachments to be removed	105

I

I deots	63
Idle Persons	25 & 151
Incest and Incestuous Marriages	78
Incroachment on Streets & highways	105
Indians	
how to be governed	62

Penalty for Drunkenness	63
for Selling them Liquors &c.	62
Trade with them	157

J udgements	
to be satisfied in Specie	40
by default	146
three Judgements to be final	145

J urors	
how to be chosen	141, 142, 143
Oath	31
Duty and Allowance	76
penalty for non appearance ib. &	131

J ustice of the Peace	
his Oath	30
Power	14 & 96
Fees	32 & 96

J ustices of Courts	
Oath	139
Power of Chancery	138, 146
to appoint their Clerks	147

J ustices of the Superiour Court	
To Licence the Sale of Lands for payment of Debts &c.	92

L

L ands	
Lying in Common how to be improved	23
Partition to be Sued out	45
Liable to payment of Debts &c.	91
Leather	106
Legacies how recoverable	45
Licenses how to be granted	16
Licensed & unlicensed houses. ib.	82, 125
Limitation for Possession	101
Lords Day	17
Lying and Libelling	14

M

M arriages	19, 79
Martha's Vineyard	43 & 80
Measurer of Salt	12
Measures	27
Messengers Fees	65
Militia	47, 149
Money	98, 103
Mortgages how to be discharged	100
Murdering of Bastard Children	92
Murder	98

N

The Table.

N Antuckett 43 Nusances 18. 93	S Ale 86 Schools 21 Sealers of Weights &c. 27 Seamen 59 Secretarys Fees 33 Sheep 56 Sberiffs Accompts 46 Sberiffs Oath 31 his Fees 35 & 65 to have custody of the Goal 153 to return Jurors in case. 143. 145
O Aths to be taken instead of the Oaths of Allegiance & Supremacy 29 Outbs of Officers 30 Oath of Clerk of the Band 50	Shingles 80 Ships 133 Sickneses 149 Slaughter houses 18 Sons and Servants 75 Still houses 18 Stolen Goods 120 Strays 121 Sureties 46 Surveyers of High ways 55 Swearing 12. 45 Swine 56
P Aking of Fish and Flesh 10 Peace broken 14 Perjury 15 Piracy 87 Poligamie 65. 134 Poor Children to be bound out 25 Poor to be relieved by their Relations 26 Possession 101 Pounds and Pound breach 117 Fee for Impounding 56 Ports 131 Prison to be kept by the Sberiff 153 Prisoners for Debt 126 Proprietors in common Lands may Sue 69	T Amers 105 Tarr Caske 11 Theft 13 Tythingmen 95. 124 Tiverton 67 Town ships and Town Officers 22 Town house in Boston 52 Towns Impowred to Sue 69 Town Clerk to be Sworn 23 his Oath 31 to grant Writts 97 & Summons for Witneses. 147 Town Treasurer 157 Traynings 48 Treasurer of the Province his } Accompts to be Allowed by } 86 the General Assembly Treason 93 Trespases 119
R Ates of Towns 96 Ravishment and Rape 98 Register of Births and Deaths 41 Registry of Deeds 99 Representatives 36. 60 Review to be brought within 3 years 145 Riots 14 Robbery 13. 87 Robbing of Orchards &c. 119 Rogues 151	X Usury

The Table.

U			Witnesses, Allowance	147
U	Sury	42	Penalty for not appearing	147
	Vagabonds	151	Wood or Trees cut or carryed	} 119
Voters in Town Affair's Qualification	23	off another mans		
for choice of Representatives	61	Land, the penalty		
W			Work house	152
	Atches, Military	48	Wolves	44. 77
	Constables	154	Writt for calling an Assembly	108
	Weights	27	Writts in Civil causes	110
Wills, in what time to be proved	6		to be in the English Tongue.	147
to be attested by three			not to abate for circumstantial Error	147
or four Witnesses	7		Issuing out of the Clerks	} 40 & 142
Nuncupative	8		Office of any Court to run	
			through the Province	
			What Test to bear.	117

AE 868 X F
19337

REPRODUCED FROM THE COPY IN THE
HENRY E. HUNTINGTON LIBRARY

FOR REFERENCE ONLY. NOT FOR REPRODUCTION